LIST OF AMENDMENTS TO THE CALIFORNIA RULES OF COURT AND STANDARDS OF JUDICIAL ADMINISTRATION

Adopted by the Judicial Council of California
Effective January 1, 2003

INTRODUCTORY STATEMENT

The Judicial Council is established under article VI, section 6, of the Constitution of California, and is given various powers and responsibilities to improve the administration of justice.

Judicial Council rules, standards, and orders

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Judicial Council forms

The Judicial Council adopts and approves legal forms used in the courts.

Under Government Code section 68511, the council may ~~"~~prescribe~~"~~ certain forms. The council "adopts" those forms, and use of those forms is mandatory (rule ~~982(a)~~ 201.1(b)(1)).

The council may also "approve" forms. Use of an approved form is not mandatory, but the form must be accepted by all courts in appropriate cases (rule ~~982(b)~~ 201.1(c)(1)).

Forms thus are ~~"~~adopted~~"~~ for mandatory use and ~~"~~approved~~"~~ for optional use. The lower left corner of the first page of each form indicates whether the ~~Judicial Council adopted or approved the~~ form is mandatory or optional.

A form adopted or approved by the council is not subject to the requirements of rule 201, which specifies the format of papers filed in ~~superior~~ the trial courts.

A party may file a "duplicate" of a council form produced entirely by computer (rule ~~982(g), (h)~~ 201.1(h), (i)).

Introductory Statement amended effective January 1, 2003; adopted effective January 1, 1992; previously amended effective January 1, 2002.

Rule 1. Taking the appeal

(a)–(e) * * *

(f) Civil case information statement

(1) On receiving notice of the filing of a notice of appeal under (d)(1), the reviewing court clerk must promptly mail the appellant a copy of the *Civil Case Information Statement* form prescribed by the Judicial Council and a notice that the statement must be filed within 10 days.

(2) Within 10 days after the clerk mails the notice required by (1), the appellant must serve and file in the reviewing court a completed *Civil Case Information Statement*, attaching a copy of the judgment or appealed order that shows the date it was entered.

(3) If the appellant fails to timely file a case information statement under (2), the reviewing court clerk must notify the appellant by mail that the appellant must file the statement within 15 days after the clerk's notice is mailed and that failure to comply will result in either the imposition of monetary sanctions or dismissal of the appeal. If the appellant fails to comply with the notice, the court may impose the sanctions specified in the notice.

(Subd (f) adopted effective January 1, 2003.)

Rule 1 amended effective January 1, 2003; repealed and adopted effective January 1, 2002.

Rule 5. Clerk's transcript

(a)–(c) * * *

(d) Preparation of transcript

(1) Within 30 days after the appellant deposits the estimated cost of the transcript or the court files an order waiving that cost, the clerk must:

~~(1)~~ (A) prepare an original and one copy of the transcript, and certify the original; and

~~(2)~~ (B) prepare additional copies for which the parties have made deposits.

(2) If the appeal is abandoned or dismissed before the clerk has completed preparation of the transcript, the clerk must refund any portion of the deposit under (c) exceeding the preparation cost actually incurred.

(Subd (d) amended effective January 1, 2003.

Rule 5 amended effective January 1, 2003;repealed and adopted effective January 1, 2002.

Advisory Committee Comment (2002)

New subdivision (d)(2) is derived from former rule 19(a).

Rule 13. Briefs by parties and amici curiae

(a) Parties' briefs

(1)–(3) ***

(4) No other brief may be filed except with the permission of the presiding justice, unless it qualifies under (b)~~(6)~~ or (c)(6)~~ under rule 29.4(f) after the Supreme Court transfers a cause to a Court of Appeal~~.

(5) ***

(Subd (a) amended effective January 1, 2003.)

(b) Supplemental briefs after remand or transfer from Supreme Court

(1) Within 15 days after finality of a Supreme Court decision remanding or order transferring a cause to a Court of Appeal for further proceedings, any party may serve and file a supplemental opening brief in the Court of Appeal. Within 15 days after such a brief is filed, any opposing party may serve and file a supplemental responding brief.

(2) Supplemental briefs must be limited to matters arising after the previous Court of Appeal decision in the cause, unless the presiding justice permits briefing on other matters.

(3) Supplemental briefs may not be filed if the previous decision of the Court of Appeal was a denial of a petition for a writ within its original jurisdiction without issuance of an alternative writ or order to show cause.

(Subd (b) adopted effective January 1, 2003.)

~~(b)~~(c) ***

(Subd (c) relettered effective January 1, 2003; adopted as subd (b) effective january 1, 2002.)

Rule 13 amended effective January 1, 2003; repealed and adopted effective January 1, 2002.

Advisory Committee Comment (2002)

New subdivision (b) is derived from former rule 29.4(f).

After the Supreme Court remands or transfers a cause to the Court of Appeal for further proceedings (i.e., under revised rule 29.3(c)–(e), or rule 47.1(a)(1)(B)), the parties are permitted to file supplemental briefs. Former rule 29.4(f) authorized the parties to file only simultaneous supplemental briefs within a single 30-day period. In a substantive change intended to improve the usefulness of such briefing to the Court of Appeal, revised rule 13(b) authorizes instead two consecutive briefing periods of 15 days each. The revised rule makes clear that the first 15-day briefing period begins on the day of *finality* (under revised rule 29.4) of the Supreme Court decision remanding or order transferring the cause to the Court of Appeal. Moreover, the revised rule specifies that "any party" may file a supplemental opening brief, and if such a brief is filed, "any opposing party" may file a supplemental responding brief. In this context the phrase "any party" is intended to mean any *or all* parties. Under the revised rule, therefore, such a decision or order of transfer to the Court of Appeal triggers, first, a 15-day period in which any or all parties may file supplemental opening briefs and, second—if any party files such a brief—an additional 15-day period in which any opposing party may file a supplemental responding brief.

Advisory Committee Comment (2001)

Revised rule 13 governs briefs—of the parties or amici curiae—in the Court of Appeal only; rule 29.3 governs briefs in the Supreme Court.

Subdivision (a) ***

Subdivision ~~(b)~~(c). Revised subdivision ~~(b)~~(c) is former rule 14(c). Revised subdivision ~~(b)~~(c)(2) states the showing required of a prospective amicus curiae in terms somewhat different from those of former rule 14(c), but no substantive change is intended.

Revised subdivision ~~(b)~~(c)(3) conforms amicus curiae practice in the Court of Appeal with amicus curiae practice in the Supreme Court by requiring that the application for permission to file an amicus curiae brief be accompanied by the proposed brief. The change is substantive, and is intended to expedite the briefing process.

Revised subdivision ~~(b)~~(c)(6) is new. It incorporates the substance of the amendment to former rule 14(c) effective July 1, 2002.

Rule 15. Service and filing of briefs

(a) * * *

(b) Extensions of time

(1) The parties may extend each period under (a) by up to 60 days by filing one or more stipulations in the reviewing court before the brief is due. Stipulations must be signed by and served on all parties. The original

signature of at least one party must appear on the stipulation filed in the reviewing court; the signatures of the other parties may be in the form of facsimile copies of the signed signature page of the stipulation. A stipulation is effective on filing. The reviewing court may not shorten a stipulated extension.

(2)–(3) * * *

(Subd (b) amended effective January 1, 2003.)

(c)–(e) * * *

Rule 15 amended effective January 1, 2003; repealed and adopted effective January 1, 2002.

PART IV. Hearing and Decision in the Court of Appeal

Title One, Appellate Rules—Division I, Rules Relating to the Supreme Court and Courts of Appeal—Chapter 1, Rules on Appeal—Part ~~III~~ IV ~~Briefs~~ Hearing and Decision in the Court of Appeals~~,~~ amended effective January 1, 2003.

Rule 19. Calendar preference

A party claiming calendar preference must promptly serve and file a motion for preference in the reviewing court.

Rule 19 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 19 is former rule 19.3. Like the former rule, the revised rule requires a party claiming preference to file a motion for preference in the reviewing court. The revised rule fills a gap by requiring the motion to be served on the opposing party.

The motion requirement relieves the reviewing court of the burden of searching the record to determine if preference should be ordered. The requirement is not intended to bar the court from ordering preference without a motion when the ground is apparent on the face of the appeal, e.g., in appeals from judgments of dependency (Welf. & Inst. Code, § 395).

Like the former rule, the revised rule is broad in scope: it includes motions for preference on the grounds (1) that a statute provides for preference in the reviewing court (e.g., Code Civ. Proc., §§ 44 [probate proceedings, contested elections, libel by public official]), 45 [judgment freeing minor from parental custody]); (2) that the reviewing court should exercise its discretion to grant preference when a statute provides for trial preference (e.g., *id*., §§ 35 [certain election matters], 36 [party over 70 and in poor health; party with terminal illness; minor in wrongful death action]; see *Warren v. Schecter* (1997)

57 Cal.App.4th 1189, 1198–1199); and (3) that the reviewing court should exercise its discretion to grant preference on a nonstatutory ground (e.g., economic hardship).

The former rule required the motion to be filed "no later than the last day for filing the appellant's reply brief." In a substantive change, the revised rule deletes this provision because it is unduly restrictive: valid grounds for preference could arise after the filing of the reply brief, e.g., a diagnosis of terminal illness. Instead, the revised rule requires the motion to be filed "promptly," i.e., as soon as the ground for preference arises.

The former rule provided that "[f]ailure to comply with this rule may be deemed a waiver" of the preference claim. To the extent the quoted provision referred to a failure to comply with the former specific time limit for filing the motion, it is no longer relevant; and to the extent the provision referred more broadly to the reviewing court's authority to deny the motion on any appropriate ground, it is unnecessary. The provision is therefore deleted from the revised rule.

Rule 19.3 repealed effective January 1, 2003; adopted effective July 1, 1984. The repealed rule related to motion for calendar preference.

Rule 20. Settlement, abandonment, voluntary dismissal, and compromise

(a) Notice of settlement

(1) If a civil case settles after a notice of appeal has been filed, the appellant must immediately serve and file a notice of settlement in the Court of Appeal. If the parties have designated a clerk's or a reporter's transcript and the record has not been filed in the Court of Appeal, the appellant must also immediately serve a copy of the notice on the superior court clerk.

(2) If the case settles after the appellant receives a notice setting oral argument or a prehearing conference, the appellant must also immediately notify the Court of Appeal of the settlement by telephone or other expeditious method.

(b) Abandonment

(1) Before the record is filed in the Court of Appeal, the appellant may serve and file in superior court an abandonment of the appeal or a stipulation to abandon the appeal. The filing effects a dismissal of the appeal and restores the superior court's jurisdiction.

(2) The superior court clerk must promptly notify the Court of Appeal and the parties of the abandonment or stipulation.

(c) Request to dismiss

(1) After the record is filed in the Court of Appeal, the appellant may serve and file in that court a request or a stipulation to dismiss the appeal.

(2) On receipt of a request or stipulation to dismiss, the court may dismiss the appeal and direct immediate issuance of the remittitur.

(d) Approval of compromise

If a guardian or conservator seeks approval of a proposed compromise of a pending appeal, the Court of Appeal may, before ruling on the compromise, direct the trial court to determine whether the compromise is in the minor's or the conservatee's best interests and to report its findings.

Rule 20 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 20 is composed of former rules 19 and 19.5(e).

Subdivision (a). Revised rule 20(a)(1) fills a gap by requiring the appellant to *serve* any notice of settlement that it files. The change is intended to ensure that all parties agree that a settlement has in fact been reached.

The former rule provided that if the record had not been "completed and transmitted to the reviewing court" when the case settles, the appellant was required to (1) give a separate notice of settlement—i.e., in addition to the notice to the reviewing court—to the superior court clerk and (2) "include proof thereof with the notice to the reviewing court." The second sentence of revised rule 20(a)(1) makes two substantive changes. First, the revised rule makes the date on which the requirement ends more precise by fixing it as the date on which the record is *filed* in the reviewing court. Second, the revised rule simplifies the process by requiring the appellant only to *serve a copy* of the notice to the reviewing court on the superior court clerk; that service accomplishes the same notification purpose as the former dual notice procedure. The same sentence fills a gap by recognizing that when the parties have not designated a clerk's or reporter's transcript (e.g., when they are proceeding by appendix under rule 5.1), there is no record for the superior court to prepare and hence no purpose in notifying that court of the settlement.

Former rule 19.5(e) required the appellant to give the reviewing court "telephone or other oral notice" if a prehearing conference or an oral argument was "imminent" at the time of settlement. The former rule thus neither provided for expeditious methods of giving notice other than orally nor did it define the relative term "imminent." Revised rule 20(a)(2) fills these gaps: the appellant may notify the reviewing court by telephone or "other expeditious method" of communication and must do so if the case settles "after the appellant receives a notice setting oral argument or a prehearing conference." The changes are substantive. In addition, by requiring that the appellant "also" give such expedited notice when appropriate, the revised rule intends the expedited notice to be not a substitute for but an addition to the normal written notice of settlement that the appellant must serve and file under revised subdivision (a)(1).

Subdivision (b). Revised rule 20(b) is former rule 19(a). Consistent with current practice, the revised rule distinguishes between an *abandonment* of the appeal effectuated by the parties before the record is filed in the reviewing court (revised subd. (b)) and a *dismissal* of the appeal ordered by the reviewing court after the record is filed (revised subd. (c)).

Former rule 19(c) placed on the superior court clerk the duty of notifying the respondent that the appellant had filed an abandonment. In a substantive change, revised rule 20(b) simplifies the process by relieving the clerk of that duty and instead requiring the appellant to *serve* any abandonment that it files.

Subdivision (c). Revised rule 20(c) is former rule 19(b). Revised subdivision (c)(1) provides that after the record is filed in the reviewing court an appellant wanting to terminate the appeal must either serve and file in that court a *request to dismiss* the appeal or file in that court a *stipulation* to dismiss signed by all parties to the appeal. The requirement that the appellant *serve* a request to dismiss is a substantive change intended to ensure that the respondent is promptly made aware that the appellant has asked the reviewing court to dismiss the appeal.

Revised subdivision (c)(2) confirms that the decision whether to dismiss the appeal after the record is filed is discretionary with the reviewing court.

Former subdivision (c). Former rule 19(c) required the appropriate clerk to notify the respondent of the filing of either a notice of abandonment or an order of dismissal. The first is now addressed in revised subdivision (b)(2), which requires the superior court clerk to notify all parties of an abandonment, and the second duplicates the requirement of revised rule 24(a)(1) that the Court of Appeal clerk send copies of all orders to the parties. The revised rule therefore deletes the provision as unnecessary.

Subdivision (d). Revised rule 20(d) is former rule 19(d) rewritten in contemporary language but without substantive change.

Rule 19.5 repealed effective January 1, 2003; adopted effective July 1, 1996; previously amended effective January 1, 1977. The repealed rule related to prehearing conferences in civil cases; settlements.

Rule 21. Prehearing conference

(a) Statement and conference

After the notice of appeal is filed in a civil case, the presiding justice may:

(1) order one or more parties to serve and file a concise statement describing the nature of the case and the issues presented; and

(2) order all necessary persons to attend a conference to consider a narrowing of the issues, settlement, and other relevant matters.

(b) Agreement

An agreement reached in a conference must be signed by the parties and filed. Unless the Court of Appeal orders otherwise, the agreement governs the appeal.

(c) Proceedings after conference

(1) Unless allowed by a filed agreement, no matter recited in a statement under (a)(1) or discussed in a conference under (a)(2) may be considered in any subsequent proceeding in the appeal other than in another conference.

(2) Neither the presiding officer nor any court personnel present at a conference may participate in or influence the determination of the appeal.

(d) Time to file brief

The time to file a party's brief under rule 15(a) is tolled from the date the Court of Appeal mails notice of the conference until the date it mails notice that the conference is concluded.

Rule 21 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 21 is composed of subdivisions (a) through (d) of former rule 19.5.

Subdivision (a). Former rule 19.5(a) authorized the presiding justice only to order the *appellant* to file a statement describing the case and the issues for the prehearing conference. Because the respondent's input may be no less useful than the appellant's, revised rule 21(a)(1) authorizes the presiding justice more broadly to order "one or more parties" to file the statement in question. This is a substantive change.

Revised rule 21(a)(1) fills a gap by requiring each party to *serve* any statement it files. (Cf. rule 222(d) [pretrial settlement conference statement must be served on each party].) The change is intended to promote the purpose of the conference by informing each party as soon as possible of parties' views of the case. The service requirement is not intended to prohibit the presiding justice from ordering the parties to submit additional, confidential material in appropriate cases.

Former rule 19.5(a)(2) specified that a justice of the reviewing court would preside at the conference. Revised rule 21(a) deletes that specification in order to conform to current practice, which allows nonjudicial personnel such as attorney volunteers also to preside.

Subdivision (b). Former rule 19.5(a) required agreements reached in a conference to be reduced to writing but did not permit them to be filed or to govern the appeal unless they were also "executed as a stipulation and approved by the conference judge." In a substantive change, revised rule 21(b) simplifies the process in two ways. First, it requires that the agreement be signed by the parties; this means the agreement must also be put in writing, and makes it the functional equivalent of an executed stipulation. Second, the revised rule deletes the requirement of approval by the conference judge (or other presiding

officer) as not germane to the purpose of the rule, which is to encourage *the parties* to agree on settling the case or at least on simplifying the issues.

Subdivision (d). Former rule 19.5(d) provided that if a conference was to be held before the due date of the appellant's opening brief, the time to file that brief was extended for 30 days after the conference date. Revised rule 21(d) makes several substantive changes in this provision.

First, the provision is not limited to the time to file an *appellant's* opening brief but applies to the time to file *any* party's brief under rule 15(a).

Second, the time is not *extended* but *tolled*, in order to avoid unwarranted lengthening of the briefing process. For example, if the conference is ordered 15 days after the start of the normal 30-day briefing period, the revised rule simply *suspends* the running of that period; when the period resumes, the party will not receive an automatic extension of a full 30 days but rather the remaining 15 days of the original briefing period, unless the period is otherwise extended.

Third, under former rule 19.5(d) the extension period began on the conference date. Under revised rule 21(d) the tolling period begins instead on the date the Court of Appeal *mails notice* to the parties that it has ordered the conference. This change is intended to promote the purpose of the subdivision, which is to suspend briefing as soon as the conference is ordered because of the possibility that it will result in settlement or simplification of issues.

Fourth, under the revised subdivision the tolling period continues "until the date [the Court of Appeal] mails notice that the conference is *concluded*" (italics added). This change is intended to accommodate the possibility that the conference may not conclude on the date it begins.

Fifth, whether or not the conference concludes on the date it begins, the revised subdivision requires the Court of Appeal clerk to mail the parties a notice that the conference is concluded. This change is intended to facilitate the calculation of the new briefing due dates.

Rule 21.5 repealed effective January 1, 2003; adopted effective July 1, 1981. The repealed rule related to "circuit-riding" sessions.

Rule 22. Judicial notice; findings and evidence on appeal

(a) Judicial notice

(1) To obtain judicial notice by a reviewing court under Evidence Code section 459, a party must serve and file a separate motion with a proposed order.

(2) If the matter to be noticed is not in the record, the party must serve and file a copy with the motion or explain why it is not practicable to do so.

(b) Findings on appeal

A party may move that the reviewing court make findings under Code of Civil Procedure section 909. The motion must include proposed findings.

(c) Evidence on appeal

(1) A party may move that the reviewing court take evidence.

(2) An order granting the motion must:

(A) state the issues on which evidence will be taken;

(B) specify whether the court, a justice, or a special master or referee will take the evidence; and

(C) give notice of the time and place for taking the evidence.

(3) For documentary evidence, a party may offer the original, a certified copy, or a photocopy. The court may admit the document in evidence without a hearing.

Rule 22 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Subdivision (a). Revised rule 22(a) is former rule 41.5.

Subdivision (b). Revised rule 22(b) is former rule 23(a). The former rule permitted counsel to present a request for appellate findings either by application or in a brief. Although such findings are rare, when they are made they can be dispositive of the appeal. For this reason, revised rule 22(b) requires any request for such findings to be presented by the more formal process of serving and filing a motion, with the consequent right of the adverse party to serve and file an opposition. (See rule 41.) The change is substantive.

The reference in revised rule 22(b) to Code of Civil Procedure section 909 is not a substantive change, because that statute also governed former rule 23(a) even though the former rule did not expressly refer to it.

Subdivision (c). Revised rule 22(c) is former rule 23(b). The former rule provided that if a party filed an application "in accordance with rule 41"—i.e., a motion—to present evidence in the appeal, the Court of Appeal had discretion to "grant or deny the [motion] in whole or in part, and subject to such conditions as it may deem proper." Because the court has that discretion in any event, revised rule 22(c) deletes the provision as unnecessary.

Revised rule 22(c)(3) resolves an ambiguity in the former rule by expressly providing that the court may admit a document into evidence "without a hearing."

Rule 22.1 repealed effective January 1, 2003; adopted effective January 1, 1998. The repealed rule related to oral argument in the Court of Appeal.

Rule 22.5 repealed effective January 1, 2003; adopted effective September 1, 1978; amended effective July 1, 1991. The repealed rule related to time of submission of cause in Court of Appeal.

Rule 23. Oral argument and submission of the cause

(a) Frequency and location of argument

(1) Each Court of Appeal and division must hold a session at least once each quarter.

(2) A Court of Appeal may hold sessions at places in its district other than the court's permanent location.

(3) Subject to approval by the Chair of the Judicial Council, a Court of Appeal may hold a session in another district to hear a cause transferred to it from that district.

(b) Notice of argument

The Court of Appeal clerk must send a notice of the time and place of oral argument to all parties at least 20 days before the argument date. The presiding justice may shorten the notice period for good cause; in that event, the clerk must immediately notify the parties by telephone or other expeditious method.

(c) Conduct of argument

Unless the court provides otherwise by local rule or order:

(1) The appellant, petitioner, or moving party has the right to open and close. If there are two or more such parties, the court must set the sequence of argument.

(2) Each side is allowed 30 minutes for argument. If multiple parties are represented by separate counsel, or if an amicus curiae—on written request—is granted permission to argue, the court may apportion or expand the time.

(3) Only one counsel may argue for each separately represented party.

(d) When the cause is submitted

(1) A cause is submitted when the court has heard oral argument or approved its waiver and the time has expired to file all briefs and papers, including any supplemental brief permitted by the court.

(2) If the Supreme Court transfers a cause to the Court of Appeal and supplemental briefs may be filed under rule 13(b), the cause is submitted when the last such brief is or could be timely filed. The Court of Appeal may order the cause submitted at an earlier time if the parties so stipulate.

(e) Vacating submission

(1) Except as provided in (2), the court may vacate submission only by an order stating its reasons and setting a timetable for resubmission.

(2) If a cause is submitted under (d)(2), an order setting oral argument vacates submission, and the cause is resubmitted when the court has heard oral argument or approved its waiver.

Rule 23 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 23 combines provisions relating to oral argument and submission of the cause in the Courts of Appeal that appeared in former rules 21, 21.5, 22.1, and 22.5.

Subdivision (a). Former rule 21.5 directed each Court of Appeal to "adopt a written policy and procedure" for holding special sessions in places other than the court's permanent location. The former rule also imposed certain minimum conditions on the holding of special sessions. In a substantive change, revised rule 23(a)(2) simplifies the process by giving each Court of Appeal discretion to determine whether, when, and where to hold such special sessions and the conditions under which they will be held.

Former rule 21(a) provided that a motion filed in the Court of Appeal would be decided without oral argument but could be placed on calendar by the presiding justice. The revised rule deletes this provision because the topic is covered in the general rule on motions in the reviewing court. (See rule 41.)

Subdivision (b). Former rule 21(c) required the reviewing court clerk to give the parties written notice of the time and place of oral argument "[w]hen an appeal is set for hearing." Revised rule 23(b) requires instead that the clerk must send the notice at least 20 days before the argument date. This is a substantive change intended (1) to enhance the benefit of oral argument to the reviewing court by ensuring that the parties have adequate time to prepare, (2) to reduce the number of counsel's calendar conflicts with other courts, and (3) to promote consistency between Courts of Appeal and districts on this important step in the appellate process. Because even 20 days' notice may be impractical or impossible in certain circumstances, the revised rule also authorizes the presiding justice to shorten the period for good cause, with immediate notice to the parties.

Former rule 21(c) imposed on the reviewing court clerk the duty to include in the notice of hearing a reminder that the parties must file a notice designating exhibits to be transmitted to the

reviewing court (see former rule 10(d)). The revised rule relieves the clerk of this duty because the reminder is no longer necessary: under revised rule 18(a), the time for the parties to file a notice in the superior court designating exhibits to be transmitted expires 10 days after the last respondent's or cross-respondent's brief is filed or due, and that event ordinarily occurs before the reviewing court clerk sends the notice setting oral argument.

Subdivision (c). Revised rule 23(c) is former rule 22.1, rearranged and clarified; no substantive change is intended.

Subdivisions (d) and (e). Revised rule 23(d) and (e) are former rule 22.5.

Revised subdivision (d)(2) is former rule 22.5(c). The former provision declared that if a cause that a Court of Appeal had previously decided by opinion was transferred to it by the Supreme Court, the cause was deemed submitted on one of three dates set forth in three successive provisions. Each of these provisions, however, presented problems of interpretation or application.

The first submission date under the former rule was 60 days after the last supplemental brief was timely filed. (Former rule 22.5(c)(i).) But the parties have up to 40 days in which to file such briefs (revised rule 13(a)(4)), and the Court of Appeal then has 90 days after submission in which to file its opinion (Cal. Const., art. VI, § 19), making a total of 190 allowable days between the order of transfer and the resulting opinion. A delay of that length can cause hardship to the parties. By definition, all appeals governed by revised subdivision (d)(2) have spent time not only in the Court of Appeal but also in the Supreme Court, and therefore have been pending longer than other cases in the Court of Appeal. They should therefore be given expedited treatment if possible. Moreover, the delay is particularly unjustifiable in view of the nature of the cases involved: the majority are either "grant and hold" cases (see revised rule 28.2(c)) that the Supreme Court transfers to the Court of Appeal for it to apply the Supreme Court's decision in a lead case on the same issue (see revised rule 29.3(d)) or cases in which the Supreme Court decides the issue on which review was granted and directs the Court of Appeal to resolve one or more undecided, usually secondary, issues (see revised rule 29.3(c)). In either event the case is unlikely to be complicated; if it is complicated, the Court of Appeal may vacate submission by order (revised subd. (e)(1)) or by setting the case for oral argument (revised subd. (e)(2)).

The second submission date under the former rule was "60 days after receipt [by the Court of Appeal] of the record and of the Supreme Court's transfer order," in cases in which no timely supplemental briefs were filed. (Former rule 22.5(c)(ii).) The quoted language was ambiguous because there is ordinarily no single date when the Court of Appeal receives both the transfer order and the record. Rather, in the vast majority of cases it is the practice of the Supreme Court to send the transfer order immediately after it is filed but to send the record a few days later.

The former rule could have been read to mean that the submission date was 60 days after the later of receipt of the record or receipt of the transfer order; or the reference to the transfer order could have been read out of the rule as superfluous, because such orders are always received before the record. But neither solution would have eliminated an unintended consequence of the former rule—i.e., that it had the effect of backdating the submission and arbitrarily shortening the time available to the Court of Appeal to decide the matter. It had this effect because the provision applied only if no timely supplemental briefs were filed, and the Court of Appeal would probably not know whether such briefs would be filed until the end of the first 20-day period following the Supreme Court transfer order. If no brief was filed, the submission date was 60 days after receipt of the record and transfer order. But in most cases those triggering events had taken place within a few days—5, for example—after the start of the first 20-day briefing period. Accordingly, in such cases the submission date was not in fact a total of 80 days after the transfer order but—in the same example—15 days less.

The third submission date under the former rule was the same as the date provided by subdivision (a) of the former rule and applied in cases in which "oral argument is scheduled within either of the preceding times." (Former rule 22.5(c)(iii).) The quoted language was ambiguous insofar as it could mean either that oral argument was set or that it was held within one of the 60-day periods.

In a substantive change intended to avoid the foregoing problems and simplify the process generally, revised rule 23(d)(2) deletes the cited provisions and provides instead that if the Supreme Court transfers to the Court of Appeal a cause in which "supplemental briefs may be filed under rule 13(b)"—i.e., a cause that the Court of Appeal has previously decided by opinion—the cause is submitted when the last supplemental brief is, or could be, timely filed under rule 13(b).

Former rule 22.5(c) also granted the Court of Appeal discretion to submit the cause sooner than the rule provided, but subjected the exercise of that discretion to a condition, i.e., early submission was required to be "consistent with rule 29.4 and with any instructions of the Supreme Court." The revised rule deletes the condition as unnecessary because the Court of Appeal is required in any event to comply with other rules of court and with any Supreme Court instructions. Instead, the revised rule recognizes that the parties may want to expedite the final resolution of an appeal that has already spent time in both the Court of Appeal and the Supreme Court; for that reason, revised subdivision (d)(2) grants the Court of Appeal discretion to submit such a cause at an earlier time if the parties so stipulate. The change is substantive.

Revised subdivision (e)(1) is former rule 22.5(b). The requirement that an order vacating submission set a timetable for resubmission is implied in the former rule and is consistent with Supreme Court practice.

Revised subdivision (e)(2) is a substantive change intended to supplement the operation of revised subdivision (d)(2).

Rule 23.5 repealed effective January 1, 2003; adopted effective January 1, 1982. The repealed rule related to form of opinion.

Rule 24. Filing, finality, and modification of decision

(a) Filing the decision

(1) The Court of Appeal clerk must promptly file all opinions and orders of the court and promptly send copies showing the filing date to the parties and, when relevant, to the lower court or tribunal.

(2) A decision by opinion must identify the participating justices, including the author of the majority opinion and of any concurring or dissenting opinion, or the justices participating in a "by the court" opinion.

(b) Finality of decision

(1) Except as otherwise provided in this rule, a Court of Appeal decision, including an order dismissing an appeal involuntarily, is final in that court 30 days after filing.

(2) The following Court of Appeal decisions are final in that court on filing:

(A) the denial of a petition for a writ within the court's original jurisdiction without issuance of an alternative writ or order to show cause;

(B) the denial of a petition for writ of supersedeas;

(C) the denial of an application for bail or to reduce bail pending appeal;

(D) the denial of a transfer of a case within the appellate jurisdiction of the superior court; and

(E) the dismissal of an appeal on request or stipulation.

(3) If necessary to prevent mootness or frustration of the relief granted or to otherwise promote the interests of justice, a Court of Appeal may order early finality in that court of a decision granting a petition for a writ within its original jurisdiction or denying such a petition after issuing an alternative writ or order to show cause. The decision may provide for finality in that court on filing or within a stated period of less than 30 days.

(4) A Court of Appeal decision denying a petition for writ of habeas corpus without issuing an order to show cause is final in that court on the same day that its decision in a related appeal is final if the two decisions are filed on the same day. If the Court of Appeal orders rehearing of the decision in the appeal, its decision denying the petition for writ of habeas corpus is final when its decision on rehearing is final.

(5) If a Court of Appeal certifies its opinion for publication or partial publication after filing its decision and before its decision becomes final in that court, the finality period runs from the filing date of the order for publication.

(c) Modification of decision

(1) A reviewing court may modify a decision until the decision is final in that court. If the clerk's office is closed on the date of finality, the court may modify the decision on the next day the clerk's office is open.

(2) An order modifying an opinion must state whether it changes the appellate judgment. A modification that does not change the appellate judgment does not extend the finality date of the decision. If a modification changes the appellate judgment, the finality period runs from the filing date of the modification order.

(d) Consent to increase or decrease in amount of judgment

If a Court of Appeal decision conditions the affirmance of a money judgment on a party's consent to an increase or decrease in the amount, the judgment is reversed unless, before the decision is final under (b), the party serves and files two copies of a consent in the Court of Appeal. If a consent is filed, the finality period runs from the filing date of the consent. The clerk must send one file-stamped copy of the consent to the superior court with the remittitur.

Rule 24 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Subdivision (a). Revised rule 24(a)(2) is former rule 23.5.

Subdivision (b). As used in revised rule 24(b)(1), "decision" includes all interlocutory orders of the Court of Appeal. (See Advisory Committee Comment to revised rule 28(d).)

The first sentence of revised subdivision (b)(4) restates a provision of former rule 24(a); the second sentence is new and implements the purpose of the first.

Revised subdivision (b)(5) is new: it provides that a postfiling decision of the Court of Appeal to publish its opinion in whole under rule 976(c) or in part under rule 976.1(a) restarts the 30-day finality period. This substantive change is based on rule 40-2 of the United States Circuit Rules (9th Cir.). It is intended to allow parties sufficient time to petition the Court of Appeal for rehearing and/or the Supreme Court for review—and to allow potential amici curiae sufficient time to express their views—when the Court of Appeal changes the publication status of an opinion. The rule thus recognizes that the publication status of an opinion may affect a party's decision whether to file a petition for rehearing and/or a petition for review.

Subdivision (d). Former rule 24(c) was silent on the question whether the finality period is affected when a party files a consent to an increase or decrease in the amount of the judgment that results in affirmance. Revised subdivision (d) fills that gap by providing that the filing of the consent restarts the finality period. This substantive change is intended to allow the opposing parties sufficient time to petition for rehearing and/or review when it becomes clear that the judgment will be affirmed. The provision is consistent with revised subdivisions (b)(5) (finality runs from filing date of belated publication order) and (c)(2) (finality runs from filing date of modification order changing the appellate judgment).

Rule 25. Rehearing

(a) Power to order rehearing

(1) On petition of a party or on its own motion, a reviewing court may order rehearing of any decision that is not final in that court on filing.

(2) An order for rehearing must be filed before the decision is final. If the clerk's office is closed on the date of finality, the court may file the order on the next day the clerk's office is open.

(b) Petition and answer

(1) A party may serve and file a petition for rehearing within 15 days after:

(A) the filing of the decision;

(B) a publication order restarting the finality period under rule 24(b)(5), if the party has not already filed a petition for rehearing;

(C) a modification order changing the appellate judgment under rule 24(c)(2); or

(D) the filing of a consent under rule 24(d).

(2) Any answer to the petition must be served and filed within 8 days after the petition is filed.

(3) The petition and answer must comply with the relevant provisions of rule 14.

(4) Before the decision is final and for good cause, the presiding justice may relieve a party from a failure to file a timely petition or answer.

(c) No extension of time

The time for granting or denying a petition for rehearing in the Court of Appeal may not be extended. If the court does not rule on the petition before the decision is final, the petition is deemed denied.

(d) Effect of granting rehearing

An order granting a rehearing vacates the decision and any opinion filed in the case and sets the cause at large in the Court of Appeal.

Rule 25 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 25 is derived from former rule 27.

Subdivision (a). Former rule 27(a) purported to list the types of cases in which the Court of Appeal could not order rehearing, but the list was incomplete. It listed only a Court of Appeal's denial of a writ petition without issuing an alternative writ or order to show cause and a Court of Appeal's denial of a transfer of a case from a municipal court. What these two have in common is that they exemplify decisions that are final in the Court of Appeal on filing, and if a decision is final on filing there is no opportunity to file a petition for rehearing. But there are three more types of cases that are final in the Court of Appeal on filing—denial of supersedeas, denial of bail, and dismissal on request (see revised rule 24(b)(2)(B), (C), (E))—and in each the court likewise declines to entertain a petition for rehearing.

To fill these gaps, revised rule 25(a)(1) provides simply that a Court of Appeal may order rehearing of any decision that is not final in that court on filing, i.e., under revised rule 24. The change is not a substantive.

The second sentence of revised subdivision (a)(2) is derived from former rule 24(a).

Subdivision (b). The provisions of revised rule 25(b)(1), (2), and (3) are derived from subdivisions (b), (c), and (d), respectively, of former rule 27.

Former rule 27(b) provided only that a petition for rehearing could be filed within 15 days after the filing of the decision. In a substantive change, revised rule 25(b)(1) provides that a petition for rehearing may also be filed within 15 days after a postfiling order of the Court of Appeal publishing its opinion, a modification order changing the appellate judgment, or the filing of a consent to an increase or decrease in the amount of a money judgment; all are events that restart the 30-day finality period under revised rule 24. However, a party that has already filed a petition for rehearing may not file a second petition for rehearing after a publication order. (Revised subd. (b)(1)(B).)

Revised subdivision (b)(2) changes the time for filing an answer to a petition for rehearing from 23 days after the *decision* is filed to 8 days after the *petition* is filed. It is not intended to be a substantive change: in the common situation in which the petition is filed on the 15th day after the decision is filed, the time to file the answer will be the same under both the former and revised rules. The change achieves a uniform rule governing the time to file an answer, whether the petition for rehearing is filed within 15 days after the decision or at a later time, e.g., after a modification of the appellate judgment or a postfiling publication order.

Revised subdivision (b)(4) restates a provision of rule 45(c).

Subdivision (c). The first sentence of revised rule 25(c) restates a provision appearing in rule 45(c). The second sentence restates a provision of former rule 27(e); in doing so, the revised subdivision deletes as superfluous the directive to the clerk to "enter a notation in the register" that a petition for rehearing is deemed denied because it was not ruled on before finality. It is assumed that in the rare case

in which the situation may arise the clerk will routinely enter such a notation. The change is not substantive.

Subdivision (d). For purposes of completeness, revised rule 25(d) states the case law on the effect of ordering rehearing. It is not a substantive change.

Rule 26. Remittitur

(a) Proceedings requiring issuance of remittitur

A Court of Appeal must issue a remittitur after a decision in:

(1) an appeal; or

(2) an original proceeding, except when the court denies a writ petition without issuing an alternative writ or order to show cause.

(b) Clerk's duties

(1) If a Court of Appeal decision is not reviewed by the Supreme Court:

(A) the Court of Appeal clerk must issue a remittitur immediately after the Supreme Court denies review, or the period for granting review expires, or the court dismisses review under rule 29.3(b); and

(B) the clerk must send the lower court or tribunal the Court of Appeal remittitur and a file-stamped copy of the opinion or order.

(2) After Supreme Court review of a Court of Appeal decision:

(A) on receiving the Supreme Court remittitur, the Court of Appeal clerk must issue a remittitur immediately if there will be no further proceedings in the Court of Appeal; and

(B) the clerk must send the lower court or tribunal the Court of Appeal remittitur, a copy of the Supreme Court remittitur, and a file-stamped copy of the Supreme Court opinion or order.

(c) Immediate issuance, stay, and recall

(1) A Court of Appeal may direct immediate issuance of a remittitur only on the parties' stipulation or on dismissal of the appeal under rule 20(c)(2).

(2) On a party's or its own motion or on stipulation, and for good cause, the court may stay a remittitur's issuance for a reasonable period or order its recall.

(3) An order recalling a remittitur issued after a decision by opinion does not supersede the opinion or affect its publication status.

(d) Notice

(1) The remittitur is deemed issued when the clerk enters it in the record. The clerk must immediately send the parties notice of issuance of the remittitur, showing the date of entry.

(2) If, without requiring further proceedings in the trial court, the decision changes the length of a state prison sentence, applicable credits, or the maximum permissible confinement to the Youth Authority, the clerk must send a copy of the remittitur and opinion or order to the Department of Corrections or the Youth Authority.

Rule 26 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 26 is derived from former rule 25.

Subdivision (a). In specifying the cases that require issuance of a remittitur, former rule 25(a) provided as follows with regard to original proceedings in the reviewing court: "(3) any original proceeding in which an alternative writ or order to show cause has been issued addressed to a lower court, board or tribunal; or (4) any original proceeding determining on the merits the validity of the decision of a lower court, board or tribunal without issuance of an order to show cause or alternative writ. A remittitur shall not be issued when an original petition is summarily denied." This provision meant, in effect, that there had to be a remittitur in an original proceeding in which the court issued an alternative writ or order to show cause and in an original proceeding in which the court summarily granted writ relief, but not in an original proceeding in which the court summarily denied writ relief. Revised rule 26(a)(2) restates that provision in simpler terms; it is not intended to be a substantive change.

Subdivision (b). Revised rule 26(b)(1)(A) fills a gap by directing the Court of Appeal clerk to issue a remittitur when the Supreme Court denies review. The provision states current Court of Appeal practice; it is not a substantive change.

Former rule 25(a) provided that after Supreme Court review of a Court of Appeal decision, the Court of Appeal was required to issue its remittitur either (1) immediately, if the result was an unqualified affirmance or reversal, or (2) after the finality of "such further proceedings as are mandated by the Supreme Court." The latter wording caused uncertainty when the Supreme Court did not expressly mandate further proceedings but additional issues remained for the Court of Appeal to resolve on remand. Revised rule 26(b)(2)(A) clarifies that if the Court of Appeal conducts postreview proceedings—whether or not expressly mandated by the Supreme Court—the Court of Appeal will issue a new remittitur either

(1) under revised subdivision (b)(2)(A) if the decision is subsequently reviewed by the Supreme Court or (2) under revised subdivision (b)(1)(A) if it is not.

Former rule 25(a) directed the Court of Appeal clerk to send the remittitur and "a certified copy" of the court's opinion to the lower court. It was the practice of most of the Courts of Appeal to comply with this directive by issuing a remittitur in which the clerk declared that he or she "certified" that the opinion attached to the remittitur was a copy of the original opinion; the remittitur was signed by the clerk and stamped with the court's seal, but the attached opinion was not stamped with that seal. Although the revised rule does not use the word "certified" because of its possible ambiguity, the rule is not intended to change this practice.

Revised rule 26(b)(1) requires the Court of Appeal clerk to file-stamp the copy of the opinion attached to the remittitur. Although the former rule did not expressly require this step, it is not a substantive change: file-stamping such opinions is the general practice in the Courts of Appeal.

Subdivision (c). Former rule 25(c) was silent on the question whether a party wanting the court to stay the issuance of its remittitur was required to serve and file a motion for that relief. Revised rule 26(c)(2), which combines the provisions for both staying and recalling a remittitur, makes it clear that such a motion is necessary. No substantive change is intended.

Former rule 25(d) did not expressly require good cause for a reviewing court to recall a remittitur on a party's or its own motion. In accord with the case law, revised rule 26(c)(2) states this requirement expressly; it is not a substantive change. Also in accord with the case law, "good cause" as used in revised subdivision (c)(2) has substantially different meanings depending on whether it is applied to a stay or to a recall of a remittitur. (See 9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, §§ 735–741, pp. 764–771.)

For purposes of completeness, revised subdivision (c)(3) states the case law on the effect of the recall of a remittitur. It is not a substantive change.

Subdivision (d). Revised rule 26(d)(1) requires the reviewing court clerk, in sending the parties notice of issuance of the remittitur, to show the date the remittitur was entered. Although the former rule did not expressly require that showing, it is current practice to do so; the change is therefore not substantive.

Rule 27. Costs and sanctions

(a) Right to costs

(1) Except as provided in this rule, the party prevailing in the Court of Appeal in a civil case is entitled to costs on appeal.

(2) The prevailing party is the respondent if the Court of Appeal affirms the judgment without modification or dismisses the appeal. The prevailing party is the appellant if the court reverses the judgment in its entirety.

(3) If the court reverses the judgment in part or modifies it, or if there is more than one notice of appeal, the opinion must specify the award or denial of costs.

(4) If the interests of justice require it, the court may award or deny costs as it deems proper.

(5) In probate cases, the prevailing party must be awarded costs unless the Court of Appeal orders otherwise, but the superior court must decide who will pay the award.

(b) Judgment for costs

(1) The Court of Appeal clerk must enter on the record, and insert in the remittitur, a judgment awarding costs to the prevailing party under (a)(2) or as directed by the court under (a)(3) or (a)(4).

(2) If the clerk fails to enter judgment for costs, the court may recall the remittitur for correction on its own motion, or on a party's motion made not later than 30 days after the remittitur issues.

(c) Recoverable costs

(1) A party may recover only the following costs, if reasonable:

(A) the amount the party paid for any portion of the record, whether an original or a copy or both. The cost to copy parts of a prior record under rule 10(b)(2) is not recoverable unless the Court of Appeal ordered the copying;

(B) the cost to produce additional evidence on appeal;

(C) the costs to notarize, serve, mail, and file the record, briefs, and other papers;

(D) the cost to print and reproduce any brief, including any petition for rehearing or review, answer, or reply; and

(E) the cost to procure a surety bond, including the premium and the cost to obtain a letter of credit as collateral, unless the trial court determines the bond was unnecessary.

(2) Unless the court orders otherwise, an award of costs neither includes attorney fees on appeal nor precludes a party from seeking them under rule 870.2.

(d) Procedure for claiming or opposing costs

(1) Within 40 days after the clerk sends notice of issuance of the remittitur, a party claiming costs awarded by a reviewing court must serve and file in the superior court a verified memorandum of costs under rule 870.

(2) A party may serve and file a motion in the superior court to strike or tax costs claimed under (1) in the manner required by rule 870.

(3) An award of costs is enforceable as a money judgment.

(e) Sanctions

(1) On a party's or its own motion, a Court of Appeal may impose sanctions, including the award or denial of costs, on a party or an attorney for:

(A) taking a frivolous appeal or appealing solely to cause delay;

(B) including in the record any matter not reasonably material to the appeal's determination; or

(C) committing any other unreasonable violation of these rules.

(2) A party's motion under (1) must include a declaration supporting the amount of any monetary sanction sought and must be served and filed before any order dismissing the appeal but no later than 10 days after the appellant's reply brief is due. If a party moves to dismiss the appeal, with or without a sanctions motion, and the motion to dismiss is not granted, the party may move for sanctions within 10 days after the appellant's reply brief is due.

(3) The court must give notice in writing if it is considering imposing sanctions. Within 10 days after the court sends such notice, a party or attorney may serve and file an opposition, but failure to do so will not be deemed consent. An opposition may not be filed unless the court sends such notice.

(4) Unless otherwise ordered, oral argument on the issue of sanctions must be combined with oral argument on the merits of the appeal.

Rule 27 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 27 is derived from former rule 26. Like the former rule, the revised rule applies only to costs in appeals in ordinary civil cases; it is not intended to expand the categories of appeals subject to the award of costs.

Subdivision (a). Former rule 26(a)(3) required the Court of Appeal to specify the award or denial of costs in its opinion if there was more than one notice of appeal or if the judgment was modified or reversed in part *or in its entirety*; revised rule 27(a)(3) no longer requires the court's opinion to specify costs if the judgment is reversed in its entirety. This is a substantive change intended to relieve the court of the burden of specifying costs in those cases—full affirmance or full reversal—in which it is usually clear who is the prevailing party. That party is entitled to costs under the general rule of revised subdivision (a)(1) and (2), and should not have to bear the risk of a failure to specify such costs. In a case in which a different award may be proper, the Court of Appeal has the discretion to so specify under revised subdivision (a)(4).

Subdivision (c). Former rule 26(c) permitted recovery of certain listed costs if they were "reasonable," but did not expressly require other listed costs to be "reasonable" in order to be recoverable. The failure to require this appears to be an oversight, which revised rule 27(c)(1) rectifies by requiring *all* recoverable costs to be reasonable. No substantive change is intended.

Former rule 26(c)(1) limited the recoverable cost of record preparation to the cost of "an original and one copy . . . if the party is the appellant, or one copy of the record if the party is the respondent." The provision failed to authorize a respondent to recover the costs it incurred for portions of the original record, e.g., the respondent's appendix under revised rule 5.1 or transcripts of additional oral proceedings designated under revised rule 4(a)(2). In a substantive change intended to fill this gap, revised rule 27(c)(1)(A) provides more generally that any party entitled to costs may recover the amount it actually paid for any portion of the record, whether an original or a copy or both. Like the former rule, the revised subdivision is intended to refer not only to a normal record prepared by the reporter and the clerk under rules 4 and 5 but also, for example, to an appendix prepared by a party under rule 5.1 and to a superior court file to which the parties stipulate under rule 5.2.

Former rule 5(b) required a respondent to pay the cost of copying into the record any exhibits it designated for that purpose, and former rule 26(c)(1) barred recovery of that cost. Because revised rule 5 no longer imposes that cost on a respondent, revised rule 27(c)(1)(A) deletes the latter provision of former rule 26 as obsolete.

Former rule 26(c)(1) barred recovery of the cost of any method of record preparation in excess of the cost of preparation "in typewriting" unless the parties stipulated otherwise. Revised rule 27(c)(1)(A) deletes this limitation as obsolete in light of current methods of record preparation.

Subdivision (d). Revised rule 27(d)(2), like former rule 26(d), provides the procedure for a party to move in the trial court to strike or tax costs that another party has claimed under revised subdivision (d)(1). It is not intended that the trial court's authority to strike or tax unreasonable costs be limited by any failure of the moving party to move for sanctions in the Court of Appeal under revised subdivision (e): a party may seek to strike or tax costs on the ground that an opponent included unnecessary materials in the record even if the party did not move the Court of Appeal to sanction the opponent under revised subdivision (e)(1)(B). No substantive change is intended.

Subdivision (e). Former rule 26(e) omitted to authorize the Court of Appeal to impose sanctions on its own motion. Consistent with current practice, revised rule 27(e)(1) expressly recognizes the court's authority to do so. No substantive change is intended.

Former rule 26(e) required that a party's motion for monetary sanctions be served and filed concurrently with any motion by the same party to dismiss the appeal, but in no event later than 10 days after the appellant's reply brief is due. The former rule, however, failed to prescribe the time limit for a respondent to serve and file a sanctions motion when the appellant requested that the appeal be

voluntarily dismissed under what is now revised rule 20(c). Revised rule 27(e)(2) fills this gap by providing more generally that any party's sanctions motion must be served and filed before any order dismissing the appeal but no later than 10 days after the appellant's reply brief is due.

PART V. Hearing and Decision in the Supreme Court

Title One, Appellate Rules—Division I, Rules Relating to the Supreme Court and Courts of Appeal—Chapter 1, Rules on Appeal—Part ~~III~~V, ~~Briefs in the Court of Appeals~~ Hearing and Decision in the Supreme Court, amended effective January 1, 2003.

Rule 28. Petition for review

(a) Right to file a petition, answer, or reply

(1) A party may file a petition in the Supreme Court for review of any decision of the Court of Appeal, including any interlocutory order, except the denial of a transfer of a case within the appellate jurisdiction of the superior court.

(2) A party may file an answer responding to the issues raised in the petition. In the answer, the party may ask the court to address additional issues if it grants review.

(3) The petitioner may file a reply only if the answer raises additional issues for review.

(b) Grounds for review

The Supreme Court may order review of a Court of Appeal decision:

(1) when necessary to secure uniformity of decision or to settle an important question of law;

(2) when the Court of Appeal lacked jurisdiction;

(3) when the Court of Appeal decision lacked the concurrence of sufficient qualified justices; or

(4) for the purpose of transferring the matter to the Court of Appeal for such proceedings as the Supreme Court may order.

(c) Limits of review

(1) As a policy matter, on petition for review the Supreme Court normally will not consider an issue that the petitioner failed to timely raise in the Court of Appeal.

(2) A party may petition for review without petitioning for rehearing in the Court of Appeal, but as a policy matter the Supreme Court normally will accept the Court of Appeal opinion's statement of the issues and facts unless the party has called the Court of Appeal's attention to any alleged omission or misstatement of an issue or fact in a petition for rehearing.

(d) Petitions in nonconsolidated proceedings

If the Court of Appeal decides an appeal and denies a related petition for writ of habeas corpus without issuing an order to show cause and without formally consolidating the two proceedings, a party seeking review of both decisions must file a separate petition for review in each proceeding.

(e) Time to serve and file

(1) A petition for review must be served and filed within 10 days after the Court of Appeal decision is final in that court under rule 24. For purposes of this rule, the date of finality is not extended if it falls on a day on which the clerk's office is closed.

(2) The time to file a petition for review may not be extended, but the Chief Justice may relieve a party from a failure to file a timely petition for review if the time for the court to order review on its own motion has not expired.

(3) If a petition for review is presented for filing before the Court of Appeal decision is final in that court, the Supreme Court clerk must accept it and file it on the day after finality.

(4) Any answer to the petition must be served and filed within 20 days after the petition is filed.

(5) Any reply to the answer must be served and filed within 10 days after the answer is filed.

(f) Additional requirements

(1) The proof of service must name each party represented by each attorney served.

(2) The petition must also be served on the superior court clerk and the Court of Appeal clerk.

(3) In an unfair competition proceeding to which Business and Professions Code section 17209 applies, the petition must also be served as required by rule 15(e)(2).

(4) The Supreme Court clerk must file the petition even if its proof of service is defective, but if the petitioner fails to file a corrected proof of service within five days after the clerk gives notice of the defect the court may strike the petition or impose a lesser sanction.

(g) Amicus curiae letters

(1) Any person or entity wanting to support or oppose a petition for review or for an original writ must serve on all parties and send to the Supreme Court an amicus curiae letter rather than a brief.

(2) The letter must describe the interest of the amicus curiae. Any matter attached to the letter or incorporated by reference must comply with rule 28.1(f).

(3) Receipt of the letter does not constitute leave to file an amicus curiae brief on the merits under rule 29.1(f).

Rule 28 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 28 and new rules 28.1 and 28.2 group in logical sequence all the provisions on the subject of ordering review in the Supreme Court (former rules 28 and 29), but make few substantive changes.

Revised rule 28 collects in one rule the basic procedural requirements for filing a petition for review, answer, or reply, i.e., who may file and what may be reviewed, the grounds and limits of review, when to serve and file, additional service, and amicus curiae letters. The requirements of form and content are collected in new rule 28.1.

Subdivision (a). Former rule 28(a) began by providing for an event that occurs only infrequently—an order of review on the Supreme Court's own motion. To focus the rules on the far more common practice of granting review on petition of a party, revised rule 28 is limited to that subject; review on the court's own motion is addressed in revised rule 28.2(d).

Although subdivision (a) of the former rule authorized the Supreme Court to review only "decisions" of the Court of Appeal, the Advisory Committee Comment to the 1985 revision of the rule explained that under the rule "[t]he Supreme Court may review Court of Appeal interlocutory orders and orders summarily denying writs within their original jurisdiction, as well as decision[s] on the merits

resolving the ultimate outcome of the cause." Under revised rule 24(b)(2)(A), a summary denial of a writ petition is a "decision" of the Court of Appeal; but no rule tells litigants that for purposes of this rule an interlocutory order of the Court of Appeal—such as an order denying an application to appoint counsel, to augment the record, or to allow oral argument—is also a "decision" that may be challenged by petition for review. To make this point clear, revised subdivision (a)(1) expressly states that a party may file a petition to review interlocutory orders of the Court of Appeal. It is not a substantive change.

Subdivision (b). Revised subdivision (b)(1)–(3) restates without substantive change the provisions of former rule 29(a). Revised subdivision (b)(4) fills a gap by recognizing the Supreme Court's longstanding practice of ordering review, in appropriate cases, *not* to decide the case itself but for the purpose of transferring the case to the Court of Appeal with instructions to conduct certain further proceedings (e.g., with instructions to issue an alternative writ or order to show cause returnable before the Court of Appeal or the superior court).

Subdivision (c). Revised subdivision (c) restates without substantive change the provisions of former rule 29(b).

Subdivision (d). Revised subdivision (d) fills a gap by recognizing the Supreme Court's practice of requiring separate petitions for review when a party seeks review of both a decision in an appeal and a decision denying a related petition for habeas corpus without an order to show cause *if the Court of Appeal did not formally consolidate the two proceedings*. If the Court of Appeal did formally consolidate the proceedings, a single petition for review must be filed.

Subdivision (e). Revised subdivision (e)(1) provides that a petition for review must be served and filed within 10 days after the Court of Appeal decision is *final in that court*. Finality is governed by revised rule 24. Revised rule 24(b), like former rule 24(a), declares the general rule that a Court of Appeal decision is final in that court 30 days after filing. The provision then carves out five specific exceptions—decisions that it declares to be final immediately on filing (see revised rule 24(b)(2)). The plain implication is that all other Court of Appeal orders—specifically, interlocutory orders that may be the subject of a petition for review—are *not* final on filing. This implication is confirmed by current practice, in which parties may be allowed to apply for—and the Courts of Appeal may grant—reconsideration of such interlocutory orders; reconsideration, of course, would be impermissible if the orders were in fact final on filing. Nevertheless, the 1985 Appellate Advisory Committee Comment to rule 28 suggested that for purposes of determining when the 10-day period for petitioning for review begins, interlocutory Court of Appeal orders "may also be deemed final forthwith." Revised rule 28 does not adopt that suggestion, because to do so would create a trap for the unwary: by the time a party had applied for reconsideration of an interlocutory order and the Court of Appeal had denied relief, the 10-day period for petitioning for review could well have expired. Accordingly, under revised rule 28(e)(1) the time of finality of all Court of Appeal decisions, including interlocutory orders, is to be determined by reference to revised rule 24, the general rule on the subject.

Paragraph (2) of revised subdivision (e) provides that the time to file a petition for review may not be extended, but the Chief Justice may relieve a party from a failure to file a timely petition under certain circumstances. These provisions are derived from rule 45(c) and have been moved to revised rule 28 to inform litigants as soon as possible of the consequences of failing to file a timely petition for review. Under settled Supreme Court practice, an order either granting or denying relief from failure to file a timely petition for review may be signed by the Chief Justice alone.

Contrary to paragraph (2) of revised subdivision (e), paragraphs (4) and (5) do not prohibit extending the time to file an answer or reply; rule 45(c) expressly forbids an extension of time only with

respect to the petition for review, and hence by clear negative implication permits an application to extend the time to file an answer or reply under rule 43.

Subdivision (f). Revised subdivision (f)(2), like former subdivision (b), requires that the petition (but not an answer or reply) be served on the Court of Appeal clerk. To assist litigants, the revised subdivision also states explicitly what is impliedly required by rule 15(c), i.e., that the petition must also be served on the superior court clerk (for delivery to the trial judge).

Subdivision (g). Former subdivision (f) purported to require the Supreme Court clerk to *lodge* amicus curiae letters and to authorize the court in its discretion to *file* such letters. Revised subdivision (g) deletes these terms to reflect current Supreme Court practice, in which amicus curiae letters are neither lodged nor filed but simply marked "received."

Former subdivision (f) provided that the Supreme Court "may, in its discretion, elect to consider the letter . . . ." Because the court has that discretion in any event, the revised subdivision deletes the provision as unnecessary.

Former subdivision (e). The last two sentences of former subdivision (e)(2) provided in effect that the Supreme Court need consider only the issues raised in a petition or answer or fairly included in them. The point is now addressed in revised rule 29, which deals with issues on review.

Former subdivision (g). Former subdivision (g) purported to list the causes in which the Supreme Court would or would not hear oral argument after granting review. A portion of the list, however, was inconsistent with Supreme Court practice, and the remainder was superfluous. It is therefore deleted from the revised rule; no substantive change is intended.

Footnote 1 to former rule 28. As noted in footnote 1 to former rule 28, for purposes of this rule a "decision" of the Court of Appeal does not include an order denying a petition for rehearing, unless in the same order the Court of Appeal modifies its filed decision so as to change its appellate judgment. (See revised rule 24(c)(2).)

Rule 28.1. Form and contents of petition, answer, and reply

(a) In general

Except as provided in this rule, a petition for review, answer, and reply must comply with the relevant provisions of rule 14.

(b) Contents of a petition

(1) The body of the petition must begin with a concise, nonargumentative statement of the issues presented for review, framing them in terms of the facts of the case but without unnecessary detail.

(2) The petition must explain how the case presents a ground for review under rule 28(b).

(3) If a petition for rehearing could have been filed in the Court of Appeal, the petition for review must state whether it was filed and, if so, how the court ruled.

(4) If the petition seeks review of a Court of Appeal opinion, a copy of the opinion showing its filing date and a copy of any order modifying the opinion or directing its publication must be bound at the back of the original petition and each copy filed in the Supreme Court.

(5) The title of the case and designation of the parties on the cover of the petition must be identical to the title and designation in the Court of Appeal opinion or order that is the subject of the petition.

(c) Contents of an answer

An answer that raises additional issues for review must contain a concise, nonargumentative statement of those issues, framing them in terms of the facts of the case but without unnecessary detail.

(d) Contents of a reply

A reply, if any, must be limited to addressing additional issues for review raised in an answer.

(e) Length

(1) If produced on a computer, a petition or answer must not exceed 8,400 words and a reply must not exceed 4,200 words. Such a petition, answer, or reply must include a certificate by appellate counsel or an unrepresented party stating the number of words in the document. The person certifying may rely on the word count of the computer program used to prepare the document.

(2) If typewritten, a petition or answer must not exceed 30 pages and a reply must not exceed 15 pages.

(3) The tables, the Court of Appeal opinion, a certificate under (1), and any attachment under (f)(1) are excluded from the limits stated in (1) and (2).

(4) On application and for good cause, the Chief Justice may permit a longer petition, answer, reply, or attachment.

(f) Attachments and incorporation by reference

(1) No attachments are permitted except an opinion or order from which the party seeks relief and exhibits or orders of a trial court or Court of Appeal that the party considers unusually significant and do not exceed a total of 10 pages.

(2) No incorporation by reference is permitted except a reference to a petition, an answer, or a reply filed by another party in the same case or filed in a case that raises the same or similar issues and in which a petition for review is pending or has been granted.

Rule 28.1 adopted effective January 1, 2003.

Advisory Committee Comment (2003)

New rule 28.1 collects in one rule the provisions of former rule 28 governing the form and content of a petition for review, answer, and reply.

Subdivision (b). Subdivision (b)(3) makes uniform a common practice that provides the court with information needed to administer the provisions of revised rule 28(c).

Subdivision (b)(4) restates the requirement of former rule 28(e)(4) that a copy of the Court of Appeal opinion be bound with the petition for review, and adds that a copy of any Court of Appeal order modifying that opinion or directing its publication must also be bound with the petition. This substantive change is intended to assist the Supreme Court in two respects. First, if the Court of Appeal issues an order modifying its opinion so as to change the appellate judgment or directing its publication, the finality period runs anew from the date of the order. (Rule 24(b)(5), (c)(2).) Second, whether or not a modification order changes the appellate judgment, binding that order with the petition furnishes the Supreme Court with the final text of the opinion for its review.

Subdivision (b)(5) fills a gap by recognizing the Supreme Court's practice of requiring that the title of the case and designation of the parties on the cover of the petition be identical to the title and designation in the Court of Appeal opinion. The requirement assists the court in tracking the case.

Subdivision (e). Subdivision (e) states in terms of word count rather than page count the maximum permissible length of a petition for review, answer, or reply produced on a computer. This substantive change tracks an identical provision in revised rule 14(c) governing Court of Appeal briefs and is explained in the Advisory Committee Comment to that provision.

Subdivision (f). Paragraphs (1) and (2) of subdivision (f) restate and simplify portions of, respectively, the second paragraph of former rule 28(e)(6) and the third paragraph of former rule 28(e)(5). No substantive change is intended.

The first and third paragraphs of former rule 28(e)(5) in effect required parties to include their points, authorities, and arguments in the bodies of their petitions, answers, and replies. New rule 28.1(f) deletes these provisions as superfluous: the same requirements are imposed by rule 14(a)(1), which is made applicable to petitions, answers, and replies by new rule 28.1(a).

The third paragraph of former rule 28(e)(5) authorized a party to incorporate by reference portions of a petition, answer, and reply filed by another party in the same case or filed by any party in "a connected case" in which a petition for review was pending or had been filed. New rule 28.1(f)(2) deletes

as ambiguous the term "a connected case" and substitutes the more descriptive phrase, "a case that raises the same or similar issues," i.e., irrespective of the identity of the parties. The change is not substantive.

Rule 28.2. Ordering review

(a) Transmittal of record

On receiving a copy of a petition for review or on request of the Supreme Court, whichever is earlier, the Court of Appeal clerk must promptly send the record to the Supreme Court. If the petition is denied, the Supreme Court clerk must promptly return the record to the Court of Appeal.

(b) Determination of petition

(1) The court may order review within 60 days after the last petition for review is filed. Before the 60-day period or any extension expires, the court may order one or more extensions to a date not later than 90 days after the last petition is filed.

(2) An order granting review must be signed by at least four justices; an order denying review may be signed by the Chief Justice alone.

(3) If the court does not rule on the petition within the time allowed by (1), the petition is deemed denied.

(c) Grant and hold

On or after granting review, the court may order action in the matter deferred until the court disposes of another matter or pending further order of the court.

(d) Review on the court's own motion

In any case, the Supreme Court may, on its own motion, order review of a Court of Appeal decision within 30 days after the decision is final in that court. Before the 30-day period or any extension expires, the Supreme Court may order one or more extensions to a date not later than 90 days after the decision is final in the Court of Appeal. If any such period ends on a day on which the clerk's office is closed, the court may order review on its own motion on the next day the clerk's office is open.

Rule 28.2 adopted effective January 1, 2003.

Advisory Committee Comment (2003)

New rule 28.2 collects in one rule provisions of former rules 28 and 29.2 governing the transmittal of the record on petition for review, the time within which the Supreme Court may grant or deny review, "grant and hold" orders, and ordering review on the court's own motion.

Subdivision (a). Subdivision (a) of new rule 28.2 simplifies a provision of former rule 28(b) by directing the Court of Appeal clerk to send "the record" to the Supreme Court; further specification is unnecessary. The subdivision also deletes as unnecessary micromanagement the former directive to the Supreme Court clerk to retain and renumber that record if review is granted.

Subdivision (b). Former rule 28(a)(2) authorized the Supreme Court to grant review within 60 days after the filing of the last "timely" petition for review, but the word "timely" was both ambiguous and superfluous. The Supreme Court deems the 60-day period to begin on the filing date of the last petition for review that either (1) is timely in the sense that it is filed within the rule time for such petitions (i.e., 10 days after finality of the Court of Appeal decision) or (2) is *treated* as timely—although presented for filing after expiration of the rule time—in the sense that it is filed with permission of the Chief Justice on a showing of good cause for relief from default (former rule 45(c), now revised rule 28(e)(2)). In each circumstance it is the *filing* of the petition that triggers the 60-day period. New rule 28.2(b) therefore deletes the word "timely"; no substantive change is intended.

Subdivision (c). Subdivision (c) of new rule 28.2 is former rule 29.2(c). Its wording has been conformed to current Supreme Court practice; no substantive change is intended.

Subdivision (d). Subdivision (d) of new rule 28.2 is former rule 28(a)(1), authorizing orders of review on the Supreme Court's own motion. The former provision, however, apparently assumed the court would exercise this authority only in cases in which "no petition for review is filed." The assumption was not prima facie unreasonable, but in practice the court may occasionally wish to order review on its own motion even when a party has petitioned for review—for example, in a case in which the party seeks review only on an issue that the court deems unworthy of review and fails to seek review on an issue that the court does wish to reach. To fill this gap, subdivision (d) simply authorizes the court to order review on its own motion in "any case."

Rule 29. Issues on review

(a) Issues to be briefed and argued

(1) On or after ordering review, the Supreme Court may specify the issues to be briefed and argued. Unless the court orders otherwise, the parties must limit their briefs and arguments to those issues and any issues fairly included in them.

(2) Notwithstanding an order specifying issues under (1), the court may, on reasonable notice, order oral argument on fewer or additional issues or on the entire cause.

(b) Issues to be decided

(1) The Supreme Court may decide any issues that are raised or fairly included in the petition or answer.

(2) The court may decide an issue that is neither raised nor fairly included in the petition or answer if the case presents the issue and the court has given the parties reasonable notice and opportunity to brief and argue it.

(3) The court need not decide every issue the parties raise or the court specifies.

Rule 29 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Subdivision (a). Revised rule 29(a) is former rule 29.2(b).

Subdivision (b). Revised rule 29(b)(1) is former rule 29.2(a). Revised subdivision (b)(2) and (3) reflects current Supreme Court practice; no substantive change is intended.

Rule 29.1. Briefs by parties and amici curiae; judicial notice

(a) Parties' briefs; time to file

(1) Within 30 days after the Supreme Court files the order of review, the petitioner must serve and file in that court either an opening brief on the merits or the brief it filed in the Court of Appeal.

(2) Within 30 days after the petitioner files its brief or the time to do so expires, the opposing party must serve and file either an answer brief on the merits or the brief it filed in the Court of Appeal.

(3) The petitioner may file a reply brief on the merits or the reply brief it filed in the Court of Appeal. A reply brief must be served and filed within 20 days after the opposing party files its brief.

(4) A party filing a brief it filed in the Court of Appeal must attach to the cover a notice of its intent to rely on the brief in the Supreme Court.

(5) The time to serve and file a brief may not be extended by stipulation but only by order of the Chief Justice under rule 45.

(6) The court may designate which party is deemed the petitioner or otherwise direct the sequence in which the parties must file their briefs.

(b) Form and content

(1) Briefs filed under this rule must comply with the relevant provisions of rule 14.

(2) The body of the petitioner's brief on the merits must begin by quoting either:

(A) any order specifying the issues to be briefed or, if none,

(B) the statement of issues in the petition for review and, if any, in the answer.

(3) Unless the court orders otherwise, briefs on the merits must be limited to the issues stated in (2) and any issues fairly included in them.

(c) Length

(1) If produced on a computer, a brief on the merits must not exceed 14,000 words and a reply brief on the merits must not exceed 4,200 words. Such a brief must include a certificate by appellate counsel or an unrepresented party stating the number of words in the brief. The person certifying may rely on the word count of the computer program used to prepare the brief.

(2) If typewritten, a brief on the merits must not exceed 50 pages and a reply brief must not exceed 15 pages.

(3) The tables, a certificate under (1), and any quotation of issues required by (b)(2) are excluded from the limits stated in (1) and (2).

(4) On application and for good cause, the Chief Justice may permit a longer brief.

(d) Supplemental briefs

(1) A party may file a supplemental brief limited to new authorities, new legislation, or other matters that were not available in time to be included in the party's brief on the merits.

(2) A supplemental brief must not exceed 2,800 words if produced on a computer or 10 pages if typewritten, and must be served and filed no later than 10 days before oral argument.

(e) Briefs on the court's request

The court may request additional briefs on any or all issues, whether or not the parties have filed briefs on the merits.

(f) Amicus curiae briefs

(1) After the court orders review, any person or entity may serve and file an application for permission of the Chief Justice to file an amicus curiae brief.

(2) The application must be filed no later than 30 days after all briefs that the parties may file under this rule—other than supplemental briefs—have been filed or were required to be filed. The Chief Justice may allow later filing if the applicant shows specific and compelling reasons for the delay.

(3) The application must state the applicant's interest and explain how the proposed amicus curiae brief will assist the court in deciding the matter.

(4) The proposed brief must be served. It must accompany the application and may be combined with it.

(5) The covers of the application and proposed brief must identify the party the applicant supports, if any.

(6) If the court grants the application, any party may file an answer within 20 days after the amicus curiae brief is filed. It must be served on all parties and the amicus curiae.

(7) The Attorney General may file an amicus curiae brief without the Chief Justice's permission unless the brief is submitted on behalf of another state officer or agency. The Attorney General must serve and file the brief within the time specified in (2) and must provide the information required by (3) and comply with (5). Any answer must comply with (6).

(g) Judicial notice

To obtain judicial notice by the Supreme Court under Evidence Code section 459, a party must comply with rule 22(a).

Rule 29.1 adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 29.1 is principally derived from former rule 29.3.

Subdivision (a). Former rule 29.3 prescribed two different time limits for filing mandatory briefs in the Supreme Court: 30 days if a party chose to file a new brief on the merits but only 15 days if a party chose instead to rely on the brief it previously filed in the Court of Appeal. Although it presumably requires more time to prepare a new brief on the merits than to copy a Court of Appeal brief and attach a notice of intent to rely on it, this justification for the discrepancy is insufficient to outweigh the resulting complication of the clerk's duties in administering the important matter of filing deadlines. Accordingly,

in a substantive change intended to simplify the briefing process, revised rule 29.1(a)(1) and (2) provides a single time limit—30 days—for filing all mandatory briefs in the Supreme Court.

Revised subdivision (a)(3) fills a gap by giving the petitioner the option of relying on the reply brief it filed in the Court of Appeal.

Subdivisions (c) and (d). Revised rule 29.1(c) and (d) state in terms of word count rather than page count the maximum permissible lengths of Supreme Court briefs produced on a computer. This substantive change tracks an identical provision in revised rule 14(c) governing Court of Appeal briefs and is explained in the Advisory Committee Comment to that provision.

Rule 29.2. Oral argument and submission of the cause

(a) Application

This rule governs oral argument in the Supreme Court unless the court provides otherwise in its Internal Operating Practices and Procedures or by order.

(b) Place of argument

The Supreme Court holds regular sessions in San Francisco, Los Angeles, and Sacramento on a schedule fixed by the court, and may hold special sessions elsewhere.

(c) Notice of argument

The Supreme Court clerk must send notice of the time and place of oral argument to all parties at least 20 days before the argument date. The Chief Justice may shorten the notice period for good cause; in that event, the clerk must immediately notify the parties by telephone or other expeditious method.

(d) Sequence of argument

The petitioner for Supreme Court relief has the right to open and close. If there are two or more petitioners—or none—the court must set the sequence of argument.

(e) Time for argument

Each side is allowed 30 minutes for argument.

(f) Number of counsel

(1) Only one counsel on each side may argue—regardless of the number of parties on the side—unless the court orders otherwise on request.

(2) Requests to divide oral argument among multiple counsel must be filed within 10 days after the date of the order setting the case for argument.

(3) Multiple counsel must not divide their argument into segments of less than 10 minutes per person, except that one counsel for the opening side—or more, if authorized by the Chief Justice on request—may reserve any portion of that counsel's time for rebuttal.

(g) Argument by amicus curiae

An amicus curiae is not entitled to argument time but may ask a party for permission to use a portion or all of the party's time, subject to the 10-minute minimum prescribed in (f)(3). If permission is granted, counsel must file a request under (f)(2).

(h) Submission of the cause

(1) A cause is submitted when the court has heard oral argument or approved its waiver and the time has expired to file all briefs and papers, including any supplemental brief permitted by the court.

(2) The court may vacate submission only by an order stating the court's reasons and setting a timetable for resubmission.

Rule 29.2 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 29.2 is principally derived from former rule 22.

Subdivision (b). Revised subdivision (b) is the first sentence of former rule 21(a). The former rule also provided that a motion filed in the Supreme Court would be decided without oral argument but could be placed on calendar by the Chief Justice. The revised rule deletes this provision because the topic is covered in the general rule on motions in the reviewing court. (See rule 41.)

Subdivision (c). Revised subdivision (c) fills a gap. It is based on revised rule 23(b) and is discussed in the Advisory Committee Comment to that rule. The practice of the Supreme Court is to give the parties at least 30 days' notice of the oral argument date.

Subdivision (d). Revised subdivision (d) is former rule 22(c). "The petitioner for Supreme Court relief" can be a petitioner for review, a petitioner for transfer (revised rule 29.9), a petitioner in an original proceeding in the Supreme Court, or a party designated as petitioner in a proceeding on request of a court of another jurisdiction (revised rule 29.8(b)(1)).

The number of petitioners is "none" when the court grants review on its own motion or transfers a cause to itself on its own motion.

Subdivision (e). The time allowed for argument in death penalty appeals is prescribed in new rule 36.2.

Subdivision (f). The number of counsel allowed to argue on each side in death penalty appeals is prescribed in new rule 36.2.

Revised subdivision (f)(3) is based on section V of the court's Internal Operating Practices and Procedures.

Subdivision (g). Revised subdivision (g) fills a gap by specifying how amici curiae may seek argument time. It states the Supreme Court practice on the topic.

Subdivision (h). Revised subdivision (h) is based on section VII of the court's Internal Operating Practices and Procedures.

Rule 29.3. Disposition of causes

(a) Normal disposition

After review, the Supreme Court normally will affirm, reverse, or modify the judgment of the Court of Appeal, but may order another disposition.

(b) Dismissal of review

(1) The Supreme Court may dismiss review. The Supreme Court clerk must promptly send an order dismissing review to all parties and the Court of Appeal.

(2) When the Court of Appeal receives an order dismissing review, the decision of that court is final and its clerk must promptly issue a remittitur or take other appropriate action.

(3) After an order dismissing review, the Court of Appeal opinion remains unpublished unless the Supreme Court orders otherwise.

(c) Remand for decision on remaining issues

If it decides fewer than all the issues presented by the case, the Supreme Court may remand the cause to a Court of Appeal for decision on any remaining issues.

(d) Transfer without decision

After ordering review, the Supreme Court may transfer the cause to a Court of Appeal without decision but with instructions to conduct such proceedings as the Supreme Court orders.

(e) Retransfer without decision

After transferring to itself, before decision, a cause pending in the Court of Appeal, the Supreme Court may retransfer the cause to a Court of Appeal without decision.

(f) Court of Appeal briefs after remand or transfer

Any supplemental briefing in the Court of Appeal after remand or transfer from the Supreme Court is governed by rule 13(b).

Rule 29.3 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 29.3 is former rule 29.4.

Subdivision (a). Like former rule 29.4(a), revised rule 29.3(a) serves two purposes. First, it declares that the Supreme Court's normal disposition of a cause after completing its review is to affirm, reverse, or modify *the judgment of the Court of Appeal*. Second, the subdivision recognizes that, when necessary, the Supreme Court may order "another disposition" appropriate to the circumstances. Like former rule 29.4(b)–(e), revised rule 29.3(b)–(e) provide examples of such "other dispositions," but the list is not intended to be exclusive.

As used in former and revised subdivisions (a), "the judgment of the Court of Appeal" includes a decision of that court denying a petition for original writ without issuing an alternative writ or order to show cause. (See former rule 24(a) and revised rule 24(b)(2)(A).) The Supreme Court's method of disposition after reviewing such a decision, however, has recently evolved. In earlier cases the Supreme Court itself denied or granted the requested writ, in effect treating the matter as if it were an original proceeding in the Supreme Court. (E.g., *City of San Jose v. Superior Court* (1993) 5 Cal.4th 47, 58 ["The alternative writ of mandate is discharged and the petition for a peremptory writ of mandate is denied."].) By contrast, current Supreme Court practice is to affirm or reverse the judgment of the Court of Appeal summarily denying the writ petition. (E.g., *People v. Superior Court (Laff)* (2001) 25 Cal.4th 703, 742–743 ["The judgment of the Court of Appeal is reversed with directions to vacate its order denying the petition, and to issue a writ of mandate . . . ."]; *State Comp. Ins. Fund v. Superior Court* (2001) 24 Cal.4th 930, 944 ["The judgment of the Court of Appeal summarily denying the petition for writ of mandate is affirmed and the order to show cause . . . is discharged."].) As the cited cases illustrate, if the Supreme Court affirms such a judgment it will normally discharge any alternative writ or order to show cause it issued when granting review; if the court reverses the judgment it will normally include a direction to the Court of Appeal, e.g., to issue the requested writ or to reconsider the petition.

Subdivision (b). Revised subdivision (b) is former rule 29.4(c). The former rule purported to limit Supreme Court *dismissals of review* to cases in which the court had "improvidently" granted review. In practice, however, the court may dismiss review for a variety of other reasons. For example, after the court decides a "lead" case, its current practice is to dismiss review in any pending companion case (i.e., a "grant and hold" matter under revised rule 28.2(c)) that appears correctly decided in light of the lead case and presents no additional issue requiring resolution by the Supreme Court or the Court of Appeal. The Supreme Court may also dismiss review when a supervening event renders the case moot for any reason, e.g., when the parties reach a settlement, when a party seeking personal relief dies, or when the court

orders review to construe a statute that is then repealed before the court can act. Reflecting this practice, the Supreme Court now dismisses review—even in the rare case in which the grant of review was arguably "improvident"—by an order that says simply, "Pursuant to rule 29.4(c) [now 29.3(b)], California Rules of Court, the above-entitled review is DISMISSED . . . ." Revised subdivision (b) follows this practice by deleting as misleading the former reference to "improvident" grants of review. It is not a substantive change.

Former rule 29.4(c) also directed the Supreme Court, after dismissing review, to "remand the cause to the Court of Appeal." In effect, however, the directive was superfluous. In the rule authorizing the court to *order* review (former rule 28(a), revised rule 28.2(b)) there is no parallel provision directing the court to *transfer* the case to itself after ordering review, and the reason is evident: an order of review ipso facto transfers jurisdiction of the cause to the Supreme Court. By the same token, an order dismissing review ipso facto retransfers jurisdiction to the Court of Appeal. The Court of Appeal has no discretion to exercise after the Supreme Court dismisses review: under both former rule 29.4(c) and revised rule 29.3(b), the Supreme Court clerk must promptly send the dismissal order to the Court of Appeal; when the Court of Appeal clerk files that order, the Court of Appeal decision immediately becomes final and the Court of Appeal clerk must promptly issue the remittitur. Revised subdivision (b)(1) therefore deletes as superfluous the directive to the Supreme Court to "remand the cause to the Court of Appeal" upon dismissal of review, because that consequence follows automatically from the order dismissing review. It is not a substantive change.

Former rule 29.4(c) provided that the Court of Appeal decision was final when the Supreme Court dismissal order was *filed* in the Court of Appeal. It is the practice of Court of Appeal clerks, however, not to *file* such orders—which have already been filed in the Supreme Court (see revised subd. (b)(1))—but simply to mark them *received* and make the appropriate docket entry. To reflect that practice, revised rule 29.3(b)(2) provides that the Court of Appeal decision is final when that court "receives" the order dismissing review.

If the decision of the Court of Appeal made final by subdivision (b)(2) requires issuance of a remittitur under revised rule 26(a), the clerk must issue the remittitur; if the decision does not require issuance of a remittitur—e.g., if the decision is an interlocutory order (see revised rule 28(a)(1))—the clerk must take whatever action is appropriate in the circumstances.

Subdivision (c). Revised subdivision (c) is former rule 29.4(b). The former rule applied when the Supreme Court decided "one or more"—implying fewer than all—issues in the case; revised subdivision (c) applies when the Supreme Court decides "fewer than all the issues presented by the case," i.e., fewer than (i) the issues "raised in the petition or answer or fairly included in those issues" (revised rule 29(b)(1)) and (ii) any other issue raised on the court's own motion (*id.*, subd. (b)(2)). The purpose is to clarify the scope of the former rule; no substantive change is intended.

Former rule 29.4(b) authorized the Supreme Court to *transfer* the cause to the Court of Appeal for decision on any remaining issues in the appeal. In practice, however, the Supreme Court does not file a separate order "transferring" the cause to the Court of Appeal in such cases; instead, as part of its appellate judgment at the end of its opinion the court simply orders the cause *remanded* to the Court of Appeal for disposition of the remaining issues. (See, e.g., *People v. Willis* (2002) 27 Cal.4th 811, 825.) Consistently with this practice, revised rule 29.3(c) provides that the Supreme Court may "remand" such a cause to the Court of Appeal for decision on any remaining issues. The change is not substantive.

Subdivision (d). Revised subdivision (d) is former rule 29.4(e). Like the former rule, it is intended to apply primarily to two types of cases: (i) those in which the court granted review "for the purpose of transferring the matter to the Court of Appeal for such proceedings as the Supreme Court may

order" (revised rule 28(b)(4)) and (ii) those in which the court, after deciding a "lead case," determines that a companion "grant and hold" case (revised rule 28.2(c)) should be reconsidered by the Court of Appeal in light of the lead case or presents an additional issue or issues that require resolution by the Court of Appeal.

Subdivision (e). Revised subdivision (e) is former rule 29.4(d). Like the former rule, it is intended to apply to cases in which the Supreme Court, after *transferring* to itself before decision a cause pending in the Court of Appeal, *retransfers* the matter to that court without decision and with or without instructions. The former rule, however, purported to limit such retransfers to cases in which the Supreme Court had "improvidently" transferred the cause to itself in the first instance. For reasons similar to those discussed under Subdivision (b) of this Comment, revised subdivision (e) deletes as misleading the former reference to "improvident" transfers. It is not a substantive change.

Subdivision (f). Former subdivision (f), relating to supplemental briefs in the Court of Appeal after a cause is transferred from the Supreme Court, has been moved to new subdivision (b) of rule 13. Revised subdivision (f) provides the cross-reference.

Rule 29.4. Filing, finality, and modification of decision

(a) Filing the decision

The Supreme Court clerk must promptly file all opinions and orders issued by the court and promptly send copies showing the filing date to the parties and, when relevant, to the lower court or tribunal.

(b) Finality of decision

(1) Except as provided in (2), a Supreme Court decision is final 30 days after filing unless:

(A) the court orders a shorter period, or

(B) before the 30-day period or any extension expires the court orders one or more extensions, not to exceed a total of 60 additional days.

(2) The following Supreme Court decisions are final on filing:

(A) the denial of a petition for review of a Court of Appeal decision;

(B) a disposition ordered under rule 29.3(b), (d), or (e);

(C) the denial of a petition for a writ within the court's original jurisdiction without issuance of an alternative writ or order to show cause; and

(D) the denial of a petition for writ of supersedeas.

(c) Modification of decision

The Supreme Court may modify a decision as provided in rule 24(c).

Rule 29.4 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 29.4 is principally derived from former rule 24.

Subdivision (b). Filling gaps in the rule consistently with Supreme Court practice, revised rule 29.4(b)(2)(B)–(D) recognizes several additional types of Supreme Court decisions that are final on filing. Thus revised subdivision (b)(2)(B) recognizes that a *dismissal*, a *transfer*, and a *retransfer* under subdivisions (b), (d), and (e), respectively, of revised rule 29.3 are decisions final on filing. A *remand* under subdivision (c) of revised rule 29.3 is not a decision final on filing because it is not a separately filed order; rather, as part of its appellate judgment at the end of its opinion in such cases the Supreme Court simply orders the cause remanded to the Court of Appeal for disposition of the remaining issues in the appeal. (See Advisory Committee Comment to revised rule 29.3(c).)

Revised subdivision (b)(2)(C) recognizes that an order denying a petition for a writ within the court's original jurisdiction without issuance of an alternative writ or order to show cause is final on filing. The provision reflects the settled Supreme Court practice, since at least 1989, of declining to file petitions for rehearing in such matters. (See, e.g., *In re Hayes* (S004421) Minutes, Cal. Supreme Ct., July 28, 1989 ["The motion to vacate this court's order of May 18, 1989 [denying a petition for habeas corpus without opinion] is denied. Because the California Rules of Court do not authorize the filing of a petition for rehearing of such an order, the alternate request to consider the matter as a petition for rehearing is denied."].)

Finally, revised subdivision (b)(2)(D) recognizes that an order denying a petition for writ of supersedeas is final on filing.

Rule 29.5. Rehearing

(a) Power to order rehearing

The Supreme Court may order rehearing as provided in rule 25(a).

(b) Petition and answer

A petition for rehearing and any answer must comply with rule 25(b)(1), (2), and (3). Before the Supreme Court decision is final and for good cause, the Chief Justice may relieve a party from a failure to file a timely petition or answer.

(c) Extension of time

The time for granting or denying a petition for rehearing in the Supreme Court may be extended under rule 29.4(b)(1)(B). If the court does not rule on the petition before the decision is final, the petition is deemed denied.

(d) Determination of petition

An order granting a rehearing must be signed by at least four justices; an order denying rehearing may be signed by the Chief Justice alone.

(e) Effect of granting rehearing

An order granting a rehearing vacates the decision and any opinion filed in the case and sets the cause at large in the Supreme Court.

Rule 29.5 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 29.5 is derived from former rule 27.

Subdivision (a). Former rule 27(a) listed certain cases in which the Court of Appeal could not order rehearing, but the provision omitted Supreme Court practice entirely: the Supreme Court also declines to entertain petitions for rehearing in several types of cases that are final in that court on filing: i.e., denial of review; dispositions under revised rule 29.3(b), (d), or (e); denial of a writ petition without issuing an alternative writ or order to show cause; and denial of supersedeas. (See revised rule 29.4(b)(2).) To fill this gap, revised rule 29.5(a) declares simply that the Supreme Court may order rehearing as provided in revised rule 25(a), i.e., it may order rehearing of any decision that is not final on filing (under revised rule 29.4). It is not a substantive change.

Subdivision (b). Revised rule 29.5(b) incorporates by reference portions of revised rule 25(b), which make a number of substantive changes explained in the Advisory Committee Comment to that rule. Revised rule 25(b)(1)(C), referring to the effect of a *publication order* on finality, is inapplicable to Supreme Court practice; all Supreme Court opinions are published.

Subdivision (c). The first sentence of revised subdivision (c) restates a provision appearing in rule 45(c). The second sentence restates a provision of former rule 27(e); in doing so, the revised subdivision deletes as superfluous the directive to the clerk to "enter a notation in the register" that a petition for rehearing is deemed denied because it was not ruled on before finality. It is assumed that in the rare case in which the situation may arise the clerk will routinely enter such a notation. The change is not substantive.

Subdivision (e). For purposes of completeness, revised subdivision (e) states the case law on the effect of ordering rehearing. It is not a substantive change.

Rule 29.6. Remittitur

(a) Proceedings requiring issuance of remittitur

The Supreme Court must issue a remittitur after a decision in:

(1) a review of a Court of Appeal decision;

(2) an appeal from a judgment of death or in a cause transferred to the court under rule 29.9; or

(3) an original proceeding, except when the court denies a writ petition without issuing an alternative writ or order to show cause.

(b) Clerk's duties

(1) The clerk must issue a remittitur when a decision of the court is final. The remittitur is deemed issued when the clerk enters it in the record.

(2) After review of a Court of Appeal decision, the Supreme Court clerk must address the remittitur to the Court of Appeal and send that court two copies of the remittitur and two file-stamped copies of the Supreme Court opinion or order.

(3) After a decision in an appeal from a judgment of death, in an original proceeding in the Supreme Court, or in a cause transferred to the court under rule 29.9, the clerk must send the remittitur and a file-stamped copy of the Supreme Court opinion or order to the lower court or tribunal.

(4) The clerk must comply with the requirements of rule 26(d).

(c) Immediate issuance, stay, and recall

(1) The Supreme Court may direct immediate issuance of a remittitur on the parties' stipulation or for good cause.

(2) On a party's or its own motion and for good cause, the court may stay a remittitur's issuance for a reasonable period or order its recall.

(3) An order recalling a remittitur issued after a decision by opinion does not supersede the opinion or affect its publication status.

Rule 29.6 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 29.6 is derived from former rule 25.

Subdivision (a). The wording of revised rule 29.6(a)(3) tracks that of revised rule 26(a)(2) and is explained in the Advisory Committee Comment to that rule.

Subdivision (b). In a substantive change, revised subdivision (b)(2)–(3) deletes the requirement of former rule 25(a) that the Supreme Court clerk "certify" the copies of that court's opinion that accompany its remittitur. To the extent the provision has been read to require the clerk to stamp the attached opinion with the seal of the court, it is obsolete. That practice presumably served the purpose of ensuring that the opinion that the clerk sent to the lower court or tribunal was in fact the opinion filed by the court. The concern is no longer valid: in current practice, by the time the remittitur issues—30 days after the opinion is filed—the opinion has already been published both on the California Courts Web site and in the official advance sheets, where its text can be compared in case of any doubt. But to the extent the provision has also been read to require the clerk to declare in the remittitur that he or she "certifies" that the attached opinion is a copy of the original opinion, it is not obsolete. Although the revised rule does not use the word "certified" because of its possible ambiguity, the rule is not intended to change the latter practice.

Revised subdivision (b)(2)–(3) requires the Supreme Court clerk to file-stamp the copies of the opinion that accompany the remittitur. Although the former rule did not expressly so provide, it is not a substantive change: file-stamping such opinions is the current practice of the Supreme Court clerk.

Revised subdivision (b)(3) fills a gap by stating the current Supreme Court practice in death penalty cases, in original writ cases in that court, and in causes that the Supreme Court transfers to itself before decision in the Court of Appeal (revised rule 29.9). It is not a substantive change.

Subdivision (c). Former rule 25(c) was silent on the question of whether a party wanting the Supreme Court to stay the issuance of its remittitur was required to serve and file a motion for that relief. Revised rule 29.6(c)(2), which combines the provisions for both staying and recalling a remittitur, makes it clear that such a motion is necessary. No substantive change is intended.

Former rule 25(d) provided that a reviewing court could recall a remittitur "on stipulation setting forth facts which would justify the granting of a motion" to recall. Revised rule 29.6(c)(2) deletes the quoted provision as redundant: if the parties are able to stipulate to facts that would justify granting a motion to recall, they need only file such a motion and attach the stipulation. No substantive change is intended.

Former rule 25(d) did not expressly require good cause for a reviewing court to recall a remittitur on a party's or its own motion. In accord with the case law, revised rule 29.6(c)(2) states this requirement expressly; it is not a substantive change. Also in accord with the case law, "good cause" as used in revised subdivision (c)(2) has substantially different meanings depending on whether it is applied to a stay or to a recall of a remittitur. (See 9 Witkin, Cal. Procedure (4th ed. 1997) Appeal, §§ 735–741, pp. 764–771.)

For purposes of completeness, revised subdivision (c)(3) states the case law on the effect of the recall of a remittitur. It is not a substantive change.

Former rule 29.6. Former rule 29.6, a transitional provision, is repealed, having served its purpose.

Rule 29.7 Costs and sanctions

In a civil case, the Supreme Court may direct the Court of Appeal to award costs, if any; or may order the parties to bear their own costs; or may make any other award of costs the Supreme Court deems proper. The Supreme Court may impose sanctions on a party or an attorney under rule 27(e) for committing any unreasonable violation of these rules.

Rule 29.7 adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 29.7 is new; it states current Supreme Court practice with respect to costs and sanctions, and is therefore not a substantive change.

If the Supreme Court makes an award of costs, the party claiming such costs must proceed under revised rule 27(d).

Rule 29.8 Decision on request of a court of another jurisdiction

(a) Request for decision

On request of the United States Supreme Court, a United States Court of Appeals, or the court of last resort of any state, territory, or commonwealth, the Supreme Court may decide a question of California law if:

(1) the decision could determine the outcome of a matter pending in the requesting court, and

(2) there is no controlling precedent.

(b) Form and contents of request

The request must take the form of an order of the requesting court containing:

(1) the title and number of the case, the names and addresses of counsel and any unrepresented party, and a designation of the party to be deemed the petitioner if the request is granted;

(2) the question to be decided, with a statement that the requesting court will accept the decision;

(3) a statement of the relevant facts prepared by the requesting court or by the parties and approved by the court; and

(4) an explanation of how the request satisfies the requirements of (a).

(c) Supporting materials

Copies of all relevant briefs must accompany the request. At any time, the Supreme Court may ask the requesting court to furnish additional record materials, including transcripts and exhibits.

(d) Serving and filing the request

The requesting court clerk must file an original and 10 copies of the request in the Supreme Court with a certificate of service on the parties.

(e) Letters in support or opposition

(1) Within 20 days after the request is filed, any party or other person or entity wanting to support or oppose the request must send a letter to the Supreme Court, with service on the parties and on the requesting court.

(2) Within 10 days after service of a letter under (1), any party may send a reply letter to the Supreme Court, with service on the other parties and the requesting court.

(3) A letter or reply asking the court to restate the question under (f)(5) must propose new wording.

(f) Proceedings in Supreme Court

(1) In exercising its discretion to grant or deny the request, the Supreme Court may consider whether resolution of the question is necessary to secure uniformity of decision or to settle an important question of law, and any other factor the court deems appropriate.

(2) An order granting the request must be signed by at least four justices; an order denying the request may be signed by the Chief Justice alone.

(3) If the court grants the request, the rules on review and decision in the Supreme Court govern further proceedings in that court.

(4) If, after granting the request, the court determines that a decision on the question may require an interpretation of the California Constitution or a decision on the validity or meaning of a California law affecting the public interest, the court must direct the clerk to send to the Attorney General—unless the Attorney General represents a party to the litigation—a copy of the request and the order granting it.

(5) At any time, the Supreme Court may restate the question or ask the requesting court to clarify the question.

(6) After filing the opinion, the clerk must promptly send file-stamped copies to the requesting court and the parties and must notify that court and the parties when the decision is final.

(7) Supreme Court decisions pursuant to this rule are published in the Official Reports and have the same precedential effect as the court's other decisions.

Rule 29.8 adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 29.8 is former rule 29.5. The revision serves three main purposes: (1) to integrate the rule more fully into the California Rules of Court by deleting provisions that duplicated other revised rules; (2) to simplify and update the rule by deleting provisions based on similar laws of other states that have not become part of Supreme Court practice under this rule; and (3) to clarify and facilitate use of the rule by recasting certain of its provisions in terms parallel to those of the longstanding and better-known rules governing petitions for review (revised rules 28–28.2). Few of the changes, however, are substantive.

To emphasize that the rule is not intended to authorize the Supreme Court to issue an improper advisory opinion in a case brought under its provisions, revised rule 29.8 no longer describes the Supreme Court's action on a request to settle a point of California law as merely an *answer* to a question, but as a *decision* on that point of law.

Under the former rule, a court of another jurisdiction that requested the Supreme Court to decide a question of California law was also required to "certify" its question to the Supreme Court. (E.g., former rule 29.5(d).) Revised rule 29.8 deletes this requirement as an unnecessary formalism. The "certification" requirement apparently served the purpose of guaranteeing that the request was authentic. But the same purpose is served equally well by the more fundamental requirement—imposed by both the former and revised rules—that the request must be presented to the Supreme Court by a formal *order* of the requesting court. (Revised rule 29.8(b).) Such an order is manifestly a sufficient guarantee of authenticity. The change is more one of terminology than of substance.

Subdivision (a). Former rule 29.5(a) stated three prerequisites for Supreme Court action on a certified question. The first was that "the certifying court requests the answer." Revised rule 29.8 deletes this requirement as redundant: because the rule does not contemplate the Supreme Court's taking the highly improbable step of acting on its own motion to provide a court of another jurisdiction with a

decision on a question of California law that that court has not asked for, *every* such decision of the Supreme Court will necessarily come in response to a request by a court of another jurisdiction.

Former rule 29.5(a) described an additional prerequisite as follows: "the *decisions of the California appellate courts* provide no controlling precedent concerning the certified question." (Italics added.) Revised rule 29.8 deletes the italicized language as redundant: in all cases, only decisions of the California Supreme Court and published decisions of the California Court of Appeal are precedents in California case law.

Subdivision (b). Former rule 29.5(b)(4) included, among the required contents of a request, a statement "demonstrating that the question certified is contested," presumably meaning contested *by the parties*. Revised rule 29.8(b) deletes this "demonstration" as unnecessary and inappropriate. Former rule 29.5(a) did not include this requirement among its prerequisites for Supreme Court action, nor should it have done so. The purpose of the requirements of subdivision (a) was to ensure that the Supreme Court did not render an improper advisory opinion; but that purpose is fully served by requiring that the court's decision "could determine the outcome of a matter pending in the requesting court and . . . there is no controlling precedent" (revised rule 29.8(a)), coupled with an assurance that "the requesting court will accept the decision" (*id*., subd. (b)(2)). Although in most cases the question may in fact be contested by the parties, that fact should not be transformed into an additional prerequisite for Supreme Court action: like any appellate court, a requesting court is not bound by an implied or even express agreement by the parties as to what the law—of California or elsewhere—is on a dispositive point; that responsibility remains the court's. And if the requesting court determines that it needs the Supreme Court's guidance on any point of California law, it may undoubtedly present the request to the Supreme Court on its own motion. (See, e.g., *Nuccio v. Nuccio* (1st Cir. 1995) 62 F.3d 14, 18; *Globe Newspaper Co. v. Beacon Hill Architectural Com.* (1st Cir. 1994) 40 F.3d 18, 24.)

Subdivision (c). Former rule 29.5(c) required the requesting court to furnish "*legible* copies of all relevant briefs [italics added]." Revised rule 29.8(c) deletes the adjective "legible" as superfluous: as in the case of briefs on the merits (revised rule 29.1), the legibility of briefs presented to the Supreme Court may be assumed and in any event is a matter to be dealt with by the clerk's office.

Former rule 29.5(c) also authorized the Supreme Court to ask the requesting court to furnish additional record materials "that, in the opinion of the [Supreme] court, may be useful in answering the certified question." Revised rule 29.8(c) deletes the qualification as superfluous: it may be assumed that the Supreme Court will not ask for useless material.

Subdivision (d). Former rule 29.5(d) purported to prescribe specific procedures by which the requesting court was required to formalize its request, e.g., requiring "[t]he judge or justice presiding at the certification hearing (if any)" to sign the request and the clerk of that court to forward the request "under its official seal." Revised rule 29.8(d) deletes these provisions because they are intrusive and unnecessary: as noted above, the requirement that the request take the form of an *order* of the requesting court (revised subd. (b)) is a sufficient guarantee of its authenticity. Revised subdivision (d) does, however, fill a gap by directing the requesting court clerk to file an original and 10 copies of the request—the number needed by the Supreme Court for processing the request.

Subdivision (e). Former rule 29.5(e) required any party wanting to support or oppose a request to do so by the formal procedure of *filing a brief* for that purpose. In a substantive change intended to simplify and expedite the process, revised rule 29.8(e) deletes this formal briefing requirement and provides instead for a party to express such views by *sending a letter* to the Supreme Court. If the Supreme Court grants the request, the party will have full opportunity to file a brief on the merits (revised

rule 29.1, incorporated by reference in revised rule 29.8(f)(3)); no purpose is served by requiring *two* rounds of briefing.

The foregoing change makes revised rule 29.8(e) consistent with revised rule 28(g), which provides a similar letter procedure for persons or entities wanting to support or oppose a petition for review. But because there is no provision in revised rule 29.8 comparable to an answer or reply to a petition for review, revised rule 29.8(e)(2)—like former rule 29.5(e)(4)—allows a party 10 days to *reply* to a letter supporting or opposing a request. (Compare revised rule 29.1(f)(6) [reply to amicus curiae brief on the merits].) And to provide the Supreme Court with a broad range of views on the matter, revised rule 29.8(e)(1) is not limited to letters by parties but also allows letters by any "other person or entity" wishing to be heard. (Compare revised rule 28(g)(1) [amicus curiae letters by "[a]ny person or entity"].)

Subdivision (f). Revised rule 29.8(f) collects in one subdivision the provisions of the former rule governing proceedings in the Supreme Court after a request is presented (former rule 29.5(f)–(*l*)).

Former rule 29.5(f) declared that the Supreme Court may *accept* or deny a request of this nature; revised 29.8(f)(1) provides instead that the court may *grant* or deny such a request. This minor change in terminology is intended to make the rule consistent with the rules authorizing the court to grant or deny *review* (see, e.g., revised rule 28.2(b)(2)). No reason appears to use a different term in proceedings under the present rule.

Revised rule 29.8(f)(1) also restates and simplifies the factors that the Supreme Court may consider in deciding whether to grant or deny the request. Consistently with current Supreme Court practice, the revised subdivision focuses on the factors that the court considers in deciding whether to grant or deny review (revised rule 28(b)(1)) and states those factors explicitly to promote clarity. Because those factors are, in practice, the court's primary concern in deciding whether to grant or deny a request under this rule, and because the court has absolute discretion to grant or deny such a request for any reason, the revised subdivision places all other possible factors into the category of "any other factor the court deems appropriate" (see also former rule 29.5(f)(4)). The change is not substantive.

Former rule 29.5(h) required the Supreme Court to "*announce* [its decision to grant a request] in the manner that it *announces* the acceptance of cases for review [italics added]." Revised rule 29.8 deletes this requirement as superfluous if it refers to a true public "announcement" of the court's action: the court's practice is to file all orders granting review, then enter them in its minutes, and then "announce," in a summary form in a weekly press release, the cases in which it granted review. In the alternative, the requirement is ambiguous if it refers to the *content* of the order by which the court grants or denies review: to clarify any such ambiguity, revised rule 29.8(f)(2) uses the same language as revised rule 28.2(b)(2), i.e., that an order granting review—or a request under revised rule 29.8—must be signed by at least four justices, but an order denying review—or such a request—may be signed by the Chief Justice alone.

Former rule 29.5(h)(2) provided elaborate directives on awarding "fees and costs" in cases heard under this rule. Revised rule 29.8(f) deletes those directives as inappropriate because the Supreme Court imposes no filing—or any other—*fees* in such cases, and as unnecessary because the subject of *costs* in such cases is dealt with by the general rule (revised subd. (f)(3)) that all proceedings occurring after a grant of a request are governed by the relevant rules on review and decision in the Supreme Court, including therefore revised rule 29.7 (costs and sanctions in the Supreme Court).

Former rule 29.5(h)(3) purported to give the Supreme Court discretion to "assign a certified question . . . priority on its docket." Revised rule 29.8(f) deletes this authorization as unnecessary: the

Supreme Court does not need the permission of a rule to determine and redetermine the order of cases on its calendar.

Former rule 29.5(i) directed the Supreme Court clerk to notify the Attorney General if the question to be answered concerned the "interpretation of a California statute." Revised rule 29.8(f)(4) refocuses the problem more precisely. On the one hand, the revised provision is broader in that it also includes an interpretation of the California Constitution and a decision on the validity of any California law, including a regulation or an ordinance. On the other hand, the revised provision is narrower in that it limits the latter to laws "affecting the public interest"; it may be assumed the Attorney General is not concerned with laws that do not affect that interest. The former rule also provided that the Supreme Court "may permit" the Attorney General "to file briefs on the issue." The revised rule deletes this provision as unecessary: the Attorney General has the right to file amicus curiae briefs without permission under revised rule 29.1(f)(7).

Although no remittitur issues when a Supreme Court decision under this rule is final, it is the practice of the Supreme Court clerk to give notice of that finality to the requesting court and the parties. Revised 29.8(f)(6) fills a gap by providing for such notice; it is not a substantive change.

Former subdivision (*l*). Revised rule 29.8 deletes as superfluous former rule 29.5(*l*), which authorized the Supreme Court or the Judicial Council to adopt procedures implementing this rule. Those bodies have general authority to adopt such procedures.

Rule 29.9 Transfer for decision

(a) Time of transfer

On a party's petition or its own motion, the Supreme Court may transfer to itself, for decision, a cause pending in a Court of Appeal.

(b) When a cause is pending

For purposes of this rule, a cause within the appellate jurisdiction of the superior court is not pending in the Court of Appeal until that court orders it transferred under rule 62. Any cause pending in the Court of Appeal remains pending until the decision of the Court of Appeal is final in that court under rule 24.

(c) Grounds

The Supreme Court will not order transfer under this rule unless the cause presents an issue of great public importance that the Supreme Court must promptly resolve.

(d) Petition and answer

A party seeking transfer under this rule must promptly serve and file in the Supreme Court a petition explaining how the cause satisfies the requirements of (c). Within 20

days after the petition is filed, any party may serve and file an answer. The petition and any answer must conform to the relevant provisions of rule 28.1.

(e) Order

Transfer under this rule requires a Supreme Court order signed by at least four justices; an order denying transfer may be signed by the Chief Justice alone.

Rule 29.9 repealed and adopted effective January 1, 2003.

Advisory Committee Comment (2003)

Revised rule 29.9 is former rule 27.5. Like the former rule, it applies only to causes that the Supreme Court transfers to itself for the purpose of reaching a decision on the merits. Also like the former rule, the revised rule implements a portion of article VI, section 12(a) of the Constitution. As used in article VI, section 12(a) and the rule, the term "cause" is broadly construed to include " 'all cases, matters, and proceedings of every description' " adjudicated by the Courts of Appeal and the Supreme Court. (*In re Rose* (2000) 22 Cal.4th 430, 540, quoting *In re Wells* (1917) 174 Cal. 467, 471.)

Subdivision (c). Former rule 27.5(b) provided that the grounds for transferring a case to the Supreme Court from a Court of Appeal before decision in that court were a showing of "[1] issues of imperative public importance [2] requiring prompt resolution by the Supreme Court, and [3] justifying a departure from normal appellate processes." Revised rule 29.9(c) makes two nonsubstantive changes in that wording.

First, revised subdivision (c) substitutes "great" for "imperative." The idea to be conveyed is the degree of public importance; the word "imperative" describes a conclusion rather than a relative magnitude.

Second, revised subdivision (c) deletes the phrase, "justifying a departure from normal appellate processes." That, too, is primarily a conclusion. The true test is stated in the first two grounds of the former rule: in the rare instances in which the Supreme Court exercises its discretion to transfer a case to itself from a Court of Appeal before decision in that court, it does so only when the issue presented (1) is of great public importance and (2) must be resolved promptly and definitively, i.e., by the state's highest court. If these two grounds are shown, the Supreme Court may conclude that the case "justif[ies] a departure from normal appellate processes." The quoted language is not a separate ground for transfer but simply the conclusion that the court may draw from proof of the first two grounds stated in the rule.

Subdivision (d). Former rule 27.5(c) required a party seeking transfer to serve and file a petition "setting forth the nature of the cause, the issues presented and how they arose, and why those issues warrant a transfer of the cause." Revised rule 29.9(d) simply provides instead that the petition must explain how the cause satisfies the requirements of revised subdivision (c). This is a nonsubstantive change intended to make the requirement consistent with the revised rule's statement of the grounds for transfer and to focus the party's attention on those grounds.

Former rule 29.9. Former rule 29.9, a transitional provision, is repealed, having served its purpose.

~~PART IV. Hearing and Determination of Appeal~~

Rule 19. Voluntary abandonment and dismissal

(a) [Before record filed] At any time before the filing of the record in the reviewing court, the appellant may file in the office of the clerk of the superior court a written abandonment of the appeal; or the parties may file in that office a stipulation for abandonment. The filing of either document shall operate to dismiss the appeal and to restore the jurisdiction of the superior court. Upon such a dismissal, the appellant shall be entitled to the return of that portion of any deposit in excess of the actual cost of preparation of the record on appeal up to that time. The clerk of the superior court shall promptly send a copy or other notice of the abandonment to the clerk of the reviewing court.

(Subd (a) amended effective January 1, 1986.)

(b) [After record filed] If the record has been filed in the reviewing court, an abandonment or a stipulation of the parties to dismiss the appeal shall be filed in that court, which may order the dismissal and immediate issuance of the remittitur.

(Subd (b) amended effective January 1, 1994.)

(c) [Notification by clerk] The clerk of the court in which the abandonment or dismissal is filed shall immediately notify the adverse party of the filing of the abandonment or the order of dismissal.

(d) [Approval of compromise] Whenever the guardian of a minor or of an insane or incompetent person seeks approval of a proposed compromise of a case pending on appeal, the reviewing court may, by order, refer the matter to the trial court with instructions to hear the same and determine whether the proposed compromise is for the best interests of the ward, and to report its findings. On receipt of the report, the reviewing court shall make its order approving or disapproving the compromise.

Rule 19 amended effective January 1, 1994; adopted effective January 1, 1951; previously amended effective January 1, 1986.

Drafter's Notes

1985 Rule 19(a) has been amended to require the trial court clerk to send the reviewing court a copy or other notice of an abandonment or dismissal of an appeal filed in the trial court. Abandonments are filed in the trial court if the record has not yet been filed in the reviewing court; after the record is filed, they are filed in the reviewing court.

1994 Rule 19 is amended to make voluntary dismissals of civil appeals effective and final forthwith.

Rule 19.3. Motion for calendar preference

A motion for preference on the calendar, supported by points and authorities, shall be filed no later than the last day for filing the appellant's reply brief. Failure to comply with this rule may be deemed a waiver of the claim of preference.

Rule 19.3 adopted effective July 1, 1984.

Drafter's Notes

1984 New rule 19.3 is adopted to establish a procedure for claiming calendar preference in a civil appeal. Failure to file a timely motion for calendar preference may be deemed a waiver of the claim of preference.

Rule 19.5. Prehearing conferences in civil cases; settlements

(a) At any time after the notice of appeal is filed, the Presiding Justice may:

(1) order the appellant to file a short statement of the nature of the case and the issues on appeal;

(2) order counsel for the parties, and any other persons he deems necessary, to appear before a judge of the court for a prehearing conference to consider the simplification of the issues on appeal, the possibility of settlement, and any other matters the designated conference judge determines may aid in the disposition of the appeal. Matters agreed upon shall be reduced to writing and, when executed as a stipulation and approved by the conference judge, shall be filed with the clerk and shall control the subsequent course of the appeal, unless modified to prevent manifest injustice.

(b) The conference judge and any court attaché who attends the conference shall not participate in or do anything to influence the consideration or decision of the appeal on its merits.

(c) The statement of the nature of the case and the issues and any matters occurring or said at a prehearing conference, unless stipulated to, approved and filed as provided in subdivision (a), shall not be referred to in any subsequent proceedings in the appeal, except a further prehearing conference or other settlement negotiations.

(d) If a prehearing conference is ordered prior to the date appellant's opening brief is due to be filed, the period for filing the brief is extended to a date 30 days after the conference date specified in the order.

(e) [Notice of settlement] If a civil case is settled after a notice of appeal is filed, the appellant shall immediately give the reviewing court written notice; and shall give telephone or other oral notice if a hearing or conference is imminent. If the record on appeal has not been completed and transmitted to the reviewing court at the time of the settlement, the appellant shall also give written notice to the clerk of the superior court, and include proof thereof with the notice to the reviewing court.

(Subd (e) adopted effective July 1, 1996.)

Rule 19.5 adopted effective July 1, 1996; previously amended effective January 1, 1977.

Drafter's Notes

1996 This rule was amended to require the appellant to give notice to the reviewing court of a settlement.

Rule 20. Transfer of causes

(a) [By Supreme Court] Except as provided in (b), causes may be transferred from the Supreme Court to a Court of Appeal, or from a Court of Appeal to the Supreme Court, or from one Court of Appeal to another, or from one division to another, only on order of the Supreme Court. The clerk of the court from which the cause is transferred shall immediately transmit to the other court the original record, briefs and all original papers and exhibits on file in the cause. If the transfer is made because the appeal is taken to the wrong court, the order may direct the appellant to pay the clerk of the court to which the cause is transferred the fee required by law for the filing of the record in the first instance. If it is so ordered and the appellant fails to pay the fee within 20 days after the mailing of the notice by the clerk that the record has been transmitted and that the filing fee must be paid, the appeal may be dismissed.

The clerk of the court to which the cause is transferred shall promptly send each party a copy of the order of transfer showing the new case number.

(Subd (a) amended effective January 1, 1992; previously amended effective November 11, 1966, and July 1, 1984.)

(b) [By administrative presiding justice] The administrative presiding justice of a Court of Appeal having more than one division may transfer causes between divisions of the court, as follows:

(1) When two or more causes arise out of the same trial court proceedings, to the division to which the first of the causes to be filed was assigned.

(2) When, because of recusals, the division to which the cause was originally assigned does not have three judges qualified to hear the cause, to another division selected at random by the clerk.

The clerk shall notify the parties of the division to which the cause is transferred, and of the method used in selecting that division. The method used by the administrative presiding justice and the clerk in selecting the division shall be fair, and shall not permit the transfer to be used to affect the decision of the cause.

This subdivision (b) shall be operative only when it has been approved by the Supreme Court.

(Subd (b) adopted effective January 1, 1992.)

Rule 20 amended effective January 1, 1992; previously amended effective November 11, 1966, and July 1, 1984.

Drafter's Notes

1984 Rule 20 is amended to require the clerk of the Court of Appeal receiving a transferred case to give notice of the transfer of a cause.

1992 Rule 20 (transfer of causes) was amended to permit the administrative presiding justice of a multidivision Court of Appeal to transfer cases between divisions of that court (1) to put in the same division cases that arose out of the same trial court proceedings; and (2) when the original division to which a case was assigned lacks three qualified judges, because of recusals. Other transfers between divisions, and all transfers between different Courts of Appeal, will continue to be made only on order of the Supreme Court.

Rule 21. Sessions

(a) [Time and place of sessions] At the times specified by the court, the Supreme Court shall hold regular sessions in San Francisco, Los Angeles, and Sacramento and may hold special sessions elsewhere. Each Court of Appeal and each division thereof shall hold regular sessions at least once in each quarter at times specified by the court. Motions will ordinarily be decided without argument, but may be placed on the calendar for any session by order of the court or the presiding justice or Chief Justice.

(Subd (a) amended effective July 1, 1989; previously amended effective November 11, 1966, and July 1, 1968.)

(b) [Special sessions] A Court of Appeal, or division thereof, may hold special sessions in another appellate district when:

(1) the causes scheduled for hearing during a special session have been transferred to the court by the Supreme Court from the appellate district in which the special session is to be held, and

(2) the session has been approved by the Chief Justice of California, as Chairman of the Judicial Council.

(Subd (b) adopted effective July 1, 1968.)

(c) [Notice of calendar hearing] When an appeal is set for hearing the clerk of the reviewing court shall give written notice to the parties of the time and place of said hearing. This notice may be in such form as the clerk may prescribe, but it shall notify each party that he must file with the clerk of the superior court a further notice specifying such of the designated original exhibits and affidavits as he deems necessary to have transmitted to the reviewing court.

(Subd (b) renumbered subd (c) effective July 1, 1968; previously amended effective January 1, 1951.)

Rule 21 amended effective July 1, 1989.

Drafter's Notes

1989 Rule 21 was amended to delete the obsolete reference to "noticed motions" in reviewing courts and make it clear that motions will normally be decided without argument but may be calendared for argument on the court's order.

Rule 21.5. "Circuit-riding" sessions

Each Court of Appeal shall adopt a written policy and procedure, not inconsistent with this rule, to facilitate sessions being held, for the convenience of the parties and counsel, at places within the district other than the court's permanent locations. Sessions may be held at any place where it appears that suitable facilities are available and a sufficient number of cases may be set for at least one day of hearings.

Rule 21.5 adopted effective July 1, 1981.

Drafter's Notes

Rule 21.5 is designed to encourage Courts of Appeal with sufficient cases originating in counties other than the one where the court normally sits to adopt experimental procedures for holding oral argument sessions in additional locations. It is hoped that these experiments will provide data on the feasibility and need of holding such sessions regularly, in the areas where the appellate cases originate.

Rule 22. Oral argument in the Supreme Court

(a) [Application] This rule governs oral argument in the Supreme Court unless the court provides otherwise by order or in its Practices and Procedures.

(b) [Time for argument] Counsel for each side is allowed 45 minutes for oral argument in a death penalty appeal and 30 minutes for oral argument in all other cases.

(c) [Order of argument] The petitioner or appellant has the right to open and close. If two or more parties petition for review, the court will indicate the order of argument.

(d) [Number of counsel] In a death penalty appeal, two counsel may argue on each side under Penal Code section 1254 if they notify the court not later than 10 days before the date of the argument that they require argument by two counsel. In other cases, no more than one counsel may be heard on each side — even if there is more than one party on each side — unless the court orders otherwise. A request to divide oral argument among two or more counsel shall be filed not later than 10 days after the date of the order setting the case for oral argument.

Rule 22 repealed and adopted effective January 1, 1998.

Drafter's Notes
1998 — Former rule 22 was repealed and new rules 22 and 22.1 were adopted to establish the time limits, order, and number of counsel in oral argument in the Supreme Court and the Court of Appeal. Consistent with the Supreme Court's recently adopted policy, rule 22 provides that only one attorney may argue for each side in the Supreme Court, except in capital appeals or with the permission of the court.

Rule 22.1. Oral argument in the Court of Appeal

(a) [Application] This rule governs oral argument in the Court of Appeal unless the court provides otherwise by order or local rule.

(b) [Time for argument] Counsel for each side is allowed 30 minutes for oral argument. If multiple parties who are represented by separate counsel or counsel for amicus curiae request argument, the court may apportion or expand the time according to the respective parties' interests.

(c) [Order of argument] The appellant or moving party has the right to open and close. If two or more parties file a notice of appeal, the court will indicate the order of argument.

(d) [Number of counsel] No more than one counsel may argue for each party who appeared separately in the court below, unless the court orders otherwise.

(e) [Amicus] Upon written request, the court may grant or deny any amicus curiae the opportunity to argue.

Rule 22.1 adopted effective January 1, 1998.

Drafter's Notes

1998 Former rule 22 was repealed and new rules 22 and 22.1 were adopted to establish the time limits, order, and number of counsel in oral argument in the Supreme Court and the Court of Appeal. Consistent with the Supreme Court's recently adopted policy, rule 22 provides that only one attorney may argue for each side in the Supreme Court, except in capital appeals or with the permission of the court.

Rule 22.5. Time of submission of cause in Court of Appeal

(a) A cause pending in a Court of Appeal is submitted when the court has heard oral argument, or has approved a waiver of oral argument, and the time has passed for filing all briefs and papers, including any supplementary brief permitted by the court.

(b) Submission may be vacated only by an order stating the reasons therefor. The order shall provide for resubmission of the cause.

(c) [After transfer from Supreme Court] If a cause previously decided by opinion by a Court of Appeal is transferred to it by the Supreme Court, the cause is submitted on the latest of

(i) 60 days after filing of the last timely supplemental brief,

(ii) 60 days after receipt of the record and of the Supreme Court's transfer order if no timely supplemental briefs are filed, or

(iii) the time provided in subdivision (a), if oral argument is scheduled within either of the preceding times.

The Court of Appeal may order the case submitted at an earlier time if doing so is consistent with rule 29.4 and with any instructions of the Supreme Court.

(Subd (c) adopted effective July 1, 1991.)

Rule 22.5 amended effective July 1, 1991; previously adopted effective September 1, 1978; applicable to all cases in which oral argument is held, or a waiver of oral argument is approved, after August 31, 1978.

Drafter's Notes

1991—The council amended rule 22.5 by adding a new subdivision (c) on determining the date of submission of a case retransferred from the Supreme Court.

Rule 23. Findings and additional evidence on appeal

(a) [Request for findings] A request that the reviewing court make findings of fact shall contain a draft of the proposed findings, and may be made in a brief, or a separate application may be served and filed. If opposing counsel has not had an opportunity in his brief to object to the request, he may serve and file written opposition thereto.

(b) [Application to produce evidence] Proceedings for the production of additional evidence on appeal shall be in accordance with rule 41. The court may grant or deny the application in whole or in part, and subject to such conditions as it may deem proper. If the application is granted, the court, by appropriate order, shall direct that the evidence be taken before the court or a department or a justice thereof, or before a referee appointed for the purpose. The court shall also prescribe reasonable notice of the time and place for the taking of the evidence and shall indicate the issues on which the evidence is to be taken. Where documentary evidence is offered, either party may submit the original or a certified or photostatic copy thereof and the court may admit the document in evidence and add it to the record on appeal.

Rule 23 amended effective January 1, 1967.

Rule 23.5. Form of opinion

The opinion of a Court of Appeal shall identify the judges participating in the decision, including the author of the majority opinion and of any concurring or dissenting opinion, or the three judges participating when the opinion is designated "by the court."

Rule 23.5 adopted effective January 1, 1982.

Drafter's Notes

1982—As recommended by the Chief Justice's Special Committee on Practice and Procedure in the First Appellate District, this new rule codifies present practice by requiring that Court of Appeal opinions identify the judges participating in the decision, including "by the court" opinions.

Rule 24. Decision of reviewing court

(a) [When decisions become final] All decisions of the reviewing courts shall be filed with the clerk, who shall forthwith transmit a copy of the opinion to the lower court or tribunal and to the parties.

A decision of the Supreme Court becomes final 30 days after filing unless the court orders a shorter time or, prior to the expiration of the 30-day period or any extension, orders one or more additional periods not to exceed a total of 60 additional days. An order of the Supreme Court denying a petition for review of a decision of a Court of Appeal becomes final when it is filed.

A decision of a Court of Appeal becomes final as to that court 30 days after filing. An order dismissing an appeal involuntarily is a decision for purposes of the preceding sentence. The decision becomes final as to that court immediately after filing upon the denial of a petition for a writ within its original jurisdiction or a writ of supersedeas, without issuance of an alternative writ or order to show cause, or the denial of an application for bail or to reduce bail pending appeal, or the denial of a transfer to a Court of Appeal in a case within the original jurisdiction of a municipal or justice court, or an order of dismissal of an appeal pursuant to a written request of the appellant or a stipulation of the parties. The denial of a petition for a writ of habeas corpus that is filed on the same day as the decision in a related appeal becomes final as to the Court of Appeal at the same time as the related appeal.

When a decision of a reviewing court is final as to that court, it is not thereafter subject to modification or rehearing by that court, except that when the date of finality falls on a holiday or other day the clerk's office is closed, the decision may be modified or rehearing granted or denied until the close of business on the next day the clerk's office is open. If an opinion is modified without change in the judgment, during the time allowed for rehearing, the modification shall not postpone the time that the decision becomes final as provided above; but if the judgment is modified during that time, the period specified herein begins to run anew, as of the date of modification.

(Subd (a) amended effective January 1, 1994; previously amended effective January 1, 1957, January 1, 1959, January 1, 1961, January 2, 1962, July 1, 1963, November 11, 1966, January 1, 1968, July 1, 1972, July 1, 1973, July 1, 1984, July 1, 1986, July 1, 1989, January 1, 1991, January 1, 1993.)

(b) [Whether judgment is modified] An order modifying an opinion shall specify whether it effects a change in the judgment.

(Subd (b) adopted effective July 1, 1986.)

(c) [Filing consent to modification] If the reviewing court orders that a judgment be reversed and a new trial granted or that, in the alternative, the judgment be affirmed on condition that the party in whose favor judgment has been rendered consent to a remission of a portion thereof, or on condition that the party against whom the judgment has been rendered consent to an addition thereto, then, unless otherwise ordered, the judgment of reversal and granting of a new trial shall become final unless within 30 days after the filing of the decision two copies of a written consent by such party to the remission or addition shall be filed in the reviewing court. One of the copies shall be transmitted with the remittitur to the superior court.

(Subd (c) relettered effective July 1, 1986.)

(d) [Discretionary early finality] Notwithstanding subdivision (a), a Court of Appeal may order that a decision granting a writ — or denying a writ after issuance of an alternative writ or an order to show cause — within its original jurisdiction shall become final as to that court

(1) Within a stated period less than 30 days or

(2) Immediately, if early finality is necessary to prevent mootness or frustration of the relief granted or is otherwise necessary in the interest of justice.

(Subd (d) amended effective July 1, 2000; relettered effective July 1, 1986; adopted effective July 1, 1983, as subd (c).)

Rule 24 amended effective July 1, 2000; previously amended effective January 1, 1957, January 1, 1959, January 1, 1961, January 2, 1962, July 1, 1963, November 11, 1966, January 1, 1968, July 1, 1972, July 1, 1973, July 1, 1983, July 1, 1984, July 1, 1986, July 1, 1989, January 1, 1991, January 1, 1993, and January 1, 1994.

Drafter's Notes

1983 — A new subdivision (c) is added to rule 24 to provide that a Court of Appeal issuing an order granting a peremptory writ may make the order final forthwith, if necessary to prevent mootness or frustration of the relief granted. This amendment evolved from comments received expressing concern over the delayed finality of orders in urgent matters.

1984 — Rules 24, 27, 28, and 62 are amended to make it clear that the rules governing finality of a decision not to transfer a published appellate department case to the Court of Appeal are the same as those for a case certified to the Court of Appeal.

1989 – Rule 24(a) was amended to insert the words "or denied" in describing the Court of Appeal's power to rule on rehearing on the first day the court is open after a holiday on which the decision became final.

1993 – Rule 24 is amended to make it clear that an involuntary dismissal is final as to the Court of Appeal 30 days after filing of the decision. This amendment was made to clarify existing law.

1994 – Rule 24 is amended to make voluntary dismissals of civil appeals effective and final forthwith.

2000 – Rules 24(d) and 56(a), (d) (Appellate Writs). These rules were amended to facilitate writ proceedings:

- Amended rule 24(d) allows a Court of Appeal discretion to order early finality when a writ petition is denied after issuance of an alternative writ or an order to show cause.

- Amended rule 56 requires writ petitions to comply with rule 15, insofar as it is practicable to do so, unless the rules specifically provide otherwise. Volumes of supporting documents are limited to 300 pages each, and exhibits in multiple volumes must be paginated consecutively.

Rule 25. Remittitur

(a) [Issuance and transmission] A remittitur shall issue after the final determination of

(1) Supreme Court review of a decision of a Court of Appeal;

(2) any appeal;

(3) any original proceeding in which an alternative writ or order to show cause has been issued addressed to a lower court, board or tribunal; or

(4) any original proceeding determining on the merits the validity of the decision of a lower court, board or tribunal without issuance of an order to show cause or alternative writ.

A remittitur shall not be issued when an original petition is summarily denied.

Unless otherwise ordered, the Clerk of the Supreme Court shall issue the remittitur when a judgment of that court becomes final, and the clerk of a Court of Appeal shall issue the remittitur

(1) upon the expiration of the period during which review in the Supreme Court may be determined, including any extension of the period granted in the particular cause or

(2) as provided in this subdivision or rule 29.4(c).

The remittitur shall be deemed issued on the clerk's entry in the record of the case, and shall be transmitted immediately, with a certified copy of the opinion or order, to the lower court, board or tribunal. On Supreme Court review of a decision of a Court of Appeal the remittitur shall, unless otherwise ordered, be addressed to the Court of Appeal, accompanied by a second certified copy of the remittitur and by two certified copies of the opinion or order; and the Court of Appeal shall issue its remittitur forthwith after an unqualified affirmance or reversal of its judgment by the Supreme Court, or after finality of such further proceedings as are mandated by the Supreme Court.

Whenever the judgment of the reviewing court changes the length of a sentence to state prison or changes the applicable credits, or changes the maximum permissible period of confinement of a person committed to the custody of the Youth Authority, without requiring further hearing in the trial court, the clerk of the reviewing court shall also transmit a copy of the remittitur and the opinion to the Department of Corrections or to the Youth Authority.

(Subd (a) amended effective May 6, 1985; previously amended effective January 1, 1957, January 1, 1961, November 11, 1966, July 1, 1980, and July 1, 1984.)

(b) [Issuance forthwith] For good cause shown, or on stipulation of the parties, the Supreme Court may direct the immediate issuance of a remittitur. The Court of Appeal may direct the immediate issuance of a remittitur on stipulation of the parties.

(Subd (b) amended effective November 11, 1966.)

(c) [Stay of issuance] A reviewing court, for good cause, may stay the issuance of a remittitur for a reasonable period.

(d) [Recall of remittitur] A remittitur may be recalled by order of the reviewing court on its own motion, on motion or petition after notice supported by affidavits, or on stipulation setting forth facts which would justify the granting of a motion.

(Subd (d) amended effective January 1, 1951.)

(e) [Notice to parties] Forthwith upon issuance of the remittitur, the clerk of the reviewing court shall mail notice to the parties that it has been issued.

(Subd (e) adopted effective January 1, 1980.)

Rule 25 amended effective May 6, 1985; previously amended effective July 1, 1984.

Drafter's Notes

1980 Rule 12 was amended to require the clerk of the reviewing court to send to the parties copies of any order augmenting the record. This primarily affects augmentation on the court's own motion, where the parties might otherwise not have known of the action. An amendment to rule 25 requires the clerk of the reviewing court to mail notice to the parties of the issuance of a remittitur. Both of these changes were originally suggested by the Academy of Appellate Lawyers. An amendment to rule 28(f) clarifies that a cause need not be calendared for oral argument in the Supreme Court if that court transfers it to a Court of Appeal.

1984 Rule 25 is amended to require issuance of a remittitur upon finality of decision in a writ matter decided on the merits. Remittiturs are not required when an original petition is summarily denied.

Rule 26. Costs on appeal

(a) [Right to costs]

(1) Except as provided in this rule, the prevailing party shall be entitled to costs on appeal under subdivision (c) as an incident to the judgment on appeal. In the case of a general and unqualified affirmance of the judgment, or the dismissal of an appeal, the respondent shall be deemed the prevailing party; in the case of a reversal, in whole or in part, or of a modification of the judgment, the appellant shall be deemed the prevailing party. In any case in which the interests of justice require it, the reviewing court may make any award or apportionment of costs it deems proper. In probate cases, in the absence of an express direction for costs by the reviewing court, costs on appeal shall be awarded to the prevailing party, but the superior court shall decide against whom the award shall be made. The foregoing provisions do not apply in criminal cases.

(2) If the appeal is frivolous or taken solely for the purpose of delay or if any party has required in the typewritten or printed record on appeal the inclusion of any matter not reasonably material to the determination of the appeal, or has been guilty of any other unreasonable infraction of the rules governing appeals, the reviewing court may impose upon offending attorneys or parties such penalties, including the withholding or imposing

of costs, as the circumstances of the case and the discouragement of like conduct in the future may require.

(3) If there is more than one notice of appeal or if the judgment of the trial court is reversed in whole or in part, or modified, the opinion shall specify the award or denial of costs.

(4) Unless otherwise ordered by the reviewing court, (i) an order or judgment regarding costs on appeal neither includes attorney fees on appeal nor precludes any party from seeking attorney fees on appeal; and (ii) the issue of entitlement to attorney fees on appeal shall be determined by motion made in the trial court under rule 870.2.

(Subd (a) amended effective January 1, 1999; previously amended effective January 1, 1959, and July 1, 1986.)

(b) [Entry of judgment for costs] In any case in which the reviewing court directs the manner in which costs shall be awarded or denied, the clerk shall enter on the record and insert in the remittitur a judgment in accordance with such directions. In the absence of such directions by the reviewing court the clerk shall enter on the record and insert in the remittitur a judgment for costs as follows:

(1) in the case of a general and unqualified affirmance of the judgment, for the respondent;

(2) in the case of a dismissal of the appeal, for the respondent.

If the clerk fails to enter judgment for costs as provided in this subdivision, the reviewing court, on motion made not later than 30 days after issuance of the remittitur or on its own motion, may recall the remittitur for correction.

(Subd (b) amended effective July 1, 1989.)

(c) [Items recoverable as costs] The party to whom costs are awarded may recover only the following, when actually incurred:

(1) the cost of preparation of an original and one copy of any type of record on appeal authorized by these rules if the party is the appellant, or one copy of the record if the party is the respondent, subject to reduction by order of the reviewing court pursuant to subdivision (a) of this rule; provided, however, that the expense of any method of preparation in excess of the cost of preparing the record in typewriting shall not be

recoverable as costs, unless the parties so stipulate, and provided, further, that the expense of copying exhibits and affidavits under rule 5(b), or of copying parts of a prior record that could be incorporated by reference under rule 11(b), shall not be recoverable as costs unless the copying is ordered by the reviewing court;

(2) the reasonable cost of printing or reproduction of briefs by other process of duplication;

(3) the cost of production of additional evidence;

(4) filing and notary fees and the expense of service, transmission, and filing of the record, briefs, and other papers;

(5) the premium on any surety bond procured by the party recovering costs, unless the court to which the remittitur is transmitted determines that the bond was unnecessary; and

(6) other expense reasonably necessary to procure the surety bond, such as the expense of acquiring a letter of credit required as collateral for the bond.

(Subd (c) amended effective January 1, 1994; previously amended effective January 1, 1951, January 1, 1959, and July 1, 1968.)

(d) [Procedure for claiming costs] A party who claims costs awarded by a reviewing court shall, within 40 days after the clerk of the reviewing court mails that party notice of the issuance of the remittitur, serve and file in the trial court a memorandum of costs verified as prescribed by rule 870(a)(1).

A party may move to have costs taxed in the same manner and within a like time after service of a copy of the memorandum of costs, as prescribed by rule 870(b). After the costs have been taxed, or after the time for taxing the costs has expired, the award of costs may be enforced in the same manner as a money judgment.

(Subd (d) amended effective July 1, 1989; adopted effective January 1, 1987.)

(e) [Procedure for requesting sanctions] A party seeking monetary sanctions on the ground the appeal is frivolous or taken solely for purposes of delay, or for an unreasonable infraction of the rules governing appeals, shall serve and file a motion under rule 41 no later than 10 days after the time when the appellant's reply brief is due or at the time of filing a motion to dismiss the appeal; a party

who filed a motion to dismiss the appeal before filing a brief may make or renew the motion for sanctions up to 10 days after the time when the appellant's reply brief is due. The motion shall include a declaration supporting the amount of sanctions being sought. The court shall notify a party or attorney if it is considering imposing sanctions on its own motion or on motion of a party. The party or attorney against whom sanctions are sought may serve and file a written opposition within 10 days after notice from the court that it is considering imposing sanctions; failure to do so shall not be deemed consent to the award of sanctions. An opposition should not ordinarily be filed unless the court has sent notice that it is considering imposing sanctions or requests the party's or attorney's views.

Unless otherwise ordered, the issue of sanctions and their amount will be argued at the time of oral argument on the merits of the appeal.

(Subd (e) as adopted effective January 1, 1995.)

Rule 26 amended effective January 1, 1999; previously amended effective January 1, 1987, July 1, 1989, January 1, 1994, and January 1, 1995.

Drafter's Notes

1987—Rules 26 and 135 are amended to recite the procedures for claiming costs on appeal.

1989—Rule 26(b) was amended to delete obsolete guides to the clerk in awarding costs in the absence of a specific order. Rule 26(d) was amended to make the time for claiming costs 40 days from the mailing of notice of issuance of the remittitur, instead of the present 30 days from the filing of the remittitur in the trial court.

1994—Rule 26 is amended to add to the list of recoverable costs, the expense of a letter of credit required in order to obtain the appeal bond.

1995—On recommendation of the Appellate Standing Advisory Committee, the council: . . . (2) amended rule 26 to specify the procedure on requests for sanctions; . . .

1999—Amended rule 26(a) provides that, unless the reviewing court orders otherwise, (1) entitlement to recover costs on appeal does not include entitlement to attorney fees on appeal; and (2) entitlement to recover attorney fees on appeal should be decided by motion made in the trial court after the appeal under rule 870.2.

Rule 27. Rehearing in court rendering decision

(a) [Power to grant rehearing] The Supreme Court or a Court of Appeal may grant a rehearing after its own decision in any cause except the denial by a Court of Appeal of a petition for a writ within its original jurisdiction without issuance of an alternative writ or order to show cause or the denial of a transfer

to a Court of Appeal in a case within the original jurisdiction of a municipal or justice court. A rehearing may be granted on petition, as provided in subdivision (b), or on the court's own motion, before the decision becomes final.

(Subd (a) amended effective July 1, 1984; previously amended effective January 1, 1957, January 1, 1959, January 2, 1962, and November 11, 1966.)

(b) [Time for filing petition] A party seeking a rehearing either in the Court of Appeal or in the Supreme Court must serve and file a petition therefor within 15 days after the filing of the decision.

(Subd (b) amended effective November 11, 1966; previously amended effective January 1, 1957, and January 2, 1962.)

(c) [Time for filing answer] An answer may be served and filed within 23 days after the filing of the decision.

(Subd (c) amended effective January 1, 1957.)

(d) [Form of petition and answer] Insofar as practicable, the petition and answer shall conform to the provisions of rule 15.

(e) [Determination of petition] An order of the Supreme Court granting a rehearing shall be signed by at least four judges assenting thereto, and filed with the clerk. If no order is made before the decision becomes final as provided in subdivision (a) of rule 24, the petition shall be deemed denied, and the clerk shall enter a notation in the register to that effect.

(Subd (e) amended effective November 11, 1966; previously amended effective January 1, 1961.)

Rule 27 amended effective July 1, 1984.

Drafter's Notes
1984 See note following rule 24.

Rule 27.5. Transfer before decision

(a) [Transfer] On its own motion or on petition of a party, the Supreme Court may order a cause pending in a Court of Appeal transferred to itself. For purposes of this rule, a cause is pending until the decision of the Court of Appeal is final as to that court; a cause decided by the appellate department of

a superior court is not pending in a Court of Appeal until it is ordered transferred pursuant to rule 62.

(b) [Grounds] Transfer before decision will not be ordered unless the cause presents issues of imperative public importance requiring prompt resolution by the Supreme Court, and justifying a departure from normal appellate processes.

(c) [Procedure] A party seeking transfer shall serve and file in the Supreme Court a petition setting forth the nature of the cause, the issues presented and how they arose, and why those issues warrant a transfer of the cause.

An answer to the petition may be served and filed within 20 days after the service of the petition.

(d) [Form of petition and answer] The petition and any answer shall conform as nearly as practicable to the requirements of rule 28(e).

(e) [Determination of petition] Transfer is granted by an order of the Supreme Court made on the affirmative votes of at least four judges.

Rule 27.5 adopted May 6, 1985.

Advisory Committee Comment

Transfer of a cause from a Court of Appeal to itself before decision has been a power of the Supreme Court under the current and predecessor language of the California Constitution. A recent case, under the version of article VI, section 12, in effect prior to May 6, 1985, is *Brosnahan v. Brown* (1982) 32 Cal.3d 236.

Rule 20 also applies to these transfers, and is cited in *Brosnahan*. However, rule 20 furnishes neither a procedure for seeking transfer before decision nor an indication of the criteria for determination of when a transfer is appropriate. This new rule, which is called for by article VI, section 12, as amended effective May 6, 1985, supplements rule 20 by providing the procedure and criteria.

Subdivision (b) is drawn from rule 18 of the United States Supreme Court Rules, applicable to petitions for certiorari prior to decision by a lower federal court. The language is chosen to emphasize the extraordinary nature of this procedure, and the fact that the Supreme Court will entertain a petition only under the most compelling circumstances.

Rule 28. Review by the Supreme Court

(a) [Time within which court may order review]

(1) *(On own motion)* If no petition for review is filed, within 30 days after a decision of a Court of Appeal becomes final as to that court the Supreme Court, on its own motion, may order review of the Court of Appeal

decision. Within the original 30-day period or any extension of it, the Supreme Court may for good cause extend the time for one or more additional periods amounting to not more than an additional 60 days in the aggregate. The total time, including extensions, shall not exceed 90 days after the decision becomes final as to the Court of Appeal.

If any period in this subdivision ends on a day the clerk's office is closed, the Supreme Court may on its own motion order review of the Court of Appeal decision on the next day the clerk's office is open.

(2) *(On petition)* Within 60 days after the filing, as provided in subdivision (b), of the last timely petition for review, the Supreme Court may order review of a Court of Appeal decision. Within the original 60-day period or any extension of it the Supreme Court may, for good cause, extend the time for one or more additional periods amounting to not more than an additional 30 days in the aggregate. The total time, including extensions, shall not exceed 90 days after the filing of the last timely petition for review.

(Subd (a) amended effective July 1, 1989; previously amended effective January 1, 1957, January 1, 1959, January 1, 1961, January 2, 1962, November 11, 1966, January 1, 1968, and May 6, 1985.)

(b) [Time for filing petition] A party seeking review must serve and file a petition within 10 days after the decision of the Court of Appeal becomes final as to that court, but a petition may not be filed after denial of a transfer to a Court of Appeal in a case within the original jurisdiction of a municipal court. For purposes of this rule, the time when the decision becomes final as to the Court of Appeal is not extended if the 30th day after the decision was filed is a Saturday, Sunday, holiday, or other day the clerk's office is closed. Proof shall be filed of the delivery or mailing of one copy of the petition to the clerk of the Court of Appeal which rendered the decision. The clerk of that court shall transmit to the Clerk of the Supreme Court the original record, briefs, and all original papers and exhibits on file in the cause forthwith on receipt of a copy of the petition or on request by the Clerk of the Supreme Court, whichever is earlier. If the petition is denied, the Clerk of the Supreme Court shall return them to the clerk of the proper Court of Appeal. If the petition is granted, they shall be retained and properly numbered by the Clerk of the Supreme Court.

A petition for review submitted for filing prior to the finality of the Court of Appeal decision as to that court shall be received by the clerk and shall be deemed to have been filed on the day after the decision becomes final as to the Court of Appeal.

(Subd (b) amended effective January 1, 1996; previously amended effective January 1, 1957, January 1, 1959, January 2, 1962, November 11, 1966, January 1, 1972, July 1, 1984, May 6, 1985, and July 1, 1986.)

(c) [Time for filing answer] An answer may be served and filed within 20 days after the filing of the petition.

(Subd (c) amended effective May 6, 1985; previously amended January 1, 1957, January 1, 1959, and November 11, 1966.)

(d) [Reply] If the answer presents additional issues for review, the petitioner may serve and file a reply limited to those additional issues within 10 days after the filing of the answer.

(Subd (d) adopted effective May 6, 1985.)

(e) [Form of petition, answer, and reply]

(1) Except as provided in this rule, the petition, answer and reply shall, insofar as practicable, conform to the provisions of rule 14.

(2) At the beginning of the body of the petition, the petition shall state the issues presented for review, expressed in the terms and circumstances of the case but without unnecessary detail. The statement should be short and concise and should not be argumentative or repetitious. The statement of an issue will be deemed to comprise every subsidiary issue fairly included in it. Only the issues set forth in the petition and answer or fairly included in them need be considered by the court.

(3) The petition shall be as concise as possible, and shall address, in particular, why the cause is appropriate for review under the criteria stated in rule 29.

(4) The original petition and each copy filed in the Supreme Court shall contain or be accompanied by a copy of the opinion of the Court of Appeal, showing the date of filing.

(5) The petition shall be a single document including a brief in support of the request for review. All contentions in support of the petition shall be included, including all legal authorities and argument. If a party files an answer to the petition, it shall be a single document which includes all contentions in opposition to the petition.

~~The answer of a party opposing review may request the court to consider additional issues if review is granted as to any or all issues raised in the petition. An answer stating additional issues shall conform to the requirements of paragraph (2).~~

~~No authorities or argument may be incorporated by reference from another document into the petition, answer or reply, but the petition, answer or reply may incorporate by reference specified portions of a petition for review, answer or reply filed in the Supreme Court by another party in the same case, or filed in the Supreme Court in a connected case wherein a petition for review is also pending or has been granted. No discussion of authorities or argument, however denominated, may be annexed to or filed with the petition, answer or reply, unless the annexed material is page-numbered consecutively with the body of the petition, answer or reply and the total length, including the annexed material, does not exceed the limit established in paragraph (6).~~

~~(6) A petition or answer shall not exceed 30 pages, exclusive of the Court of Appeal opinion, index of contents and table of authorities, and any other indices. A reply shall not exceed 15 pages, exclusive of index of contents and table of authorities.~~

~~There shall be no exhibits or appendices, however denominated, annexed to or filed with a petition, answer, or reply other than~~

~~(i) the opinion of the Court of Appeal;~~

~~(ii) any trial court order as to which relief is sought;~~

~~(iii) any annexed material permitted by subdivision (5); and~~

~~(iv) any evidentiary exhibit or order of a trial court that counsel considers of unusual significance and that does not exceed 10 pages.~~

~~In all other instances, reference to evidentiary matters and trial court orders shall be by appropriate reference to the record transmitted from the Court of Appeal to the Supreme Court. The Chief Justice may permit petitions, answers, or replies of greater length, or the inclusion of more annexed material, upon written application.~~

~~(7) Proof of service of the petition shall name each party represented by each attorney served. A petition accompanied by a defective proof of service shall be filed, but if a proper proof of service is not filed within five days,~~

the court may strike the petition or impose a lesser sanction. Service in unfair competition cases under Business and Professions Code section 17200 et seq. must also comply with rule 16(d).

(Subd (e) amended effective January 1, 2002; previously amended effective January 1, 1983, July 1, 1988, July 1, 1989, July 1, 1996, July 1, 1997, and July 1, 2000; amended and relettered effective May 6, 1985.)

(f) [Amicus curiae letters] An individual or entity desiring to support or oppose the granting of a petition for review or original writ in the Supreme Court shall lodge a letter in the Supreme Court in lieu of a brief of amicus curiae. The letter shall state the nature of the applicant's interest and conform to the requirements of subdivision (e) regarding incorporation of documents by reference and annexed material. The letter shall be accompanied by proof of service on each party to the action or proceeding. The court may, in its discretion, elect to consider the letter and may, in its discretion, cause the letter to be filed in the action or proceeding. Lodging a letter on the question of granting the petition does not constitute leave to file an amicus curiae brief on the merits if the petition is granted; all persons seeking to file an amicus curiae brief on the merits shall comply as nearly as possible with the requirements of rule 29.3(c) and (d).

(Subd (f) adopted effective January 1, 2002.)

(g) [Determination of petition] Review by the Supreme Court of a decision of a Court of Appeal may be granted by an order, signed by at least four judges, and filed with the clerk. The denial of review may be evidenced by an order signed by the Chief Justice and filed with the clerk. If no order is made within the time specified in subdivision (a) of this rule, the petition shall be deemed denied and the clerk shall enter a notation in the register to that effect.

(Subd (g) relettered effective January 1, 2002; as subd (f) previously amended and relettered effective May 6, 1985.)

(h) [Oral argument] When review is granted, the cause shall be placed on the calendar for oral argument unless oral argument is waived, or the court transfers the cause to a Court of Appeal, dismisses review as improvidently granted, orders the cause held pending decision of another cause, or issues a peremptory writ.

(Subd (h) relettered effective January 1, 2002; as subd (g) previously amended and relettered effective May 6, 1985.)

Rule 28 amended effective January 1, 2002; previously amended effective January 1, 1957, January 1, 1959, January 1, 1961, January 2, 1962, November 11, 1966, January 1, 1968, January 1, 1972, January 1, 1983, July 1, 1984, May 6, 1985, July 1, 1986, July 1, 1988, July 1, 1989, January 1, 1996, July 1, 1996, July 1, 1997, and July 1, 2000.

Advisory Committee Comment (2002)

New subdivision (f) is derived from the first paragraph of former rule 14(b).

Advisory Committee Comment

As amended effective May 6, 1985, this rule makes substantial changes in the prior procedure for petitions for "hearing." The time limits are changed. In particular, the time within which the Supreme Court has jurisdiction to order review is now measured from the date of filing of the petition for review, and not from the date of finality of the Court of Appeal decision.

The following table compares the time schedule for handling a petition for hearing under prior practice with the schedule set out in amended rule 28 for a petition for review, using as an example a case in which each document is filed and served on the last permissible day:

	Under former rule	Under amended rule	
		On petition	On own motion
Finality in Court of Appeal	Day 0	Day 0	Day 0
Petition filed	Day 10	Day 10	—
Answer filed	Day 20	Day 30	—
Reply filed*	—	Day 40	—
Time for court to act w/o extension	Day 30	Day 70	Day 30
Time for court to act with maximum extension	Day 90	Day 100	Day 90

*Allowed only if the answer presents additional issues; limited to those issues.

Several new provisions are adapted from United States Supreme Court practice on petition for writ of certiorari. Subdivision (e)(2) is adapted from United States Supreme Court rule 21.1, and requires a succinct statement of the issues presented for review.

Under subdivision (e)(5), the answer to the petition may present additional issues that the answering party wants reviewed only if the petition is granted. For example, a civil defendant who was unsuccessful on a statute of limitations defense but successful on the merits might include in its answer to the petition for review a request that if review is granted, the Supreme Court also consider the statute of limitations issue. The answer may not be used as a substitute for an independent petition for review on issues the answering party wishes the Supreme Court to review regardless of its action on the original petition.

Subdivision (e)(2) also provides that "[o]nly the issues set forth in the petition and answer or fairly included in them need be considered by the court." The statement of issues is, therefore, far more than a means of persuading the Supreme Court to grant review: the statement also defines the scope of the issues to be considered on the merits if review is granted, unless the Supreme Court determines otherwise. The committee expects the Supreme Court to follow the practice of the United States Supreme Court under its rule 21.1, and decline (in most cases) to consider the merits of questions that were not set out in the petition for review or answer. However, the rule does not limit the Supreme Court's power to make exceptions.

The 1985 amendment limits petitions for reviews to a shorter length than was permitted for petitions for hearing. This is because a new brief on the merits is now expected (see new rule 29.3). A reply is now permitted, but only if the answer stated additional issues for review.

It has long been established in California law that a denial of hearing is not an expression of the Supreme Court on the merits of the cause. (E.g., *People v. Davis* (1905) 147 Cal. 346, 350; *People v. Triggs* (1973) 8 Cal.3d 884, 890–91.) Adoption of the new "review" procedure does not affect this legal doctrine, and denial of review will not be an expression of the opinion of the Supreme Court on the correctness of the judgment of the Court of Appeal or on the correctness of any discussion in the Court of Appeal opinion. A specification of issues to be argued, in connection with a grant of review, will not be an expression of the opinion of the Supreme Court on the correctness of the resolution of other issues by the Court of Appeal or on the correctness of any discussion of them in the Court of Appeal opinion.

The Supreme Court may review the Court of Appeal interlocutory orders and orders summarily denying writs within their original jurisdiction, as well as decision on the merits resolving the ultimate outcome of the cause. Summary denials of writ petitions are, under rule 24, final immediately upon filing, allowing immediate filing of a petition in the Supreme Court; interlocutory orders of Courts of Appeal may also be deemed final forthwith.

Drafter's Notes

See rule 24(a). The "decision" referred to in rule 28 is the opinion or judgment of the court, not a subsequent ruling denying a rehearing, unless that ruling constitutes a modification of the judgment under rule 24(a).

1980 – Rule 12 was amended to require the clerk of the reviewing court to send to the parties copies of any order augmenting the record. This primarily affects augmentation on the court's own motion, where the parties might otherwise not have known of the action. An amendment to rule 25 requires the clerk of the reviewing court to mail notice to the parties of the issuance of a remittitur. Both of these changes were originally suggested by the Academy of Appellate Lawyers. An amendment to rule 28(f) clarifies that a cause need not be calendared for oral argument in the Supreme Court if that court transfers it to a Court of Appeal.

1983 – See note following rule 15.

1984 – See note following rule 24.

1988 – The council amended rule 28 to clarify that counsel filing a petition for review is to determine whether the significance of an exhibit is sufficiently unusual to merit annexation to the

petition for review. The rule was also amended to permit the attachment of a trial court order whose review is sought.

1989 – Rule 28(a) was amended to give the Supreme Court power to grant review on its own motion on the next court day after a holiday on which its time to act would otherwise have expired; and by virtue of the cross-reference in rule 45(c), give the Chief Justice the power, within the same time, to grant relief from default from a failure to file a timely petition for review.

The council amended rule 28(e) to require proof of service of a petition for review to name the parties represented by each attorney served.

January 1996 – The Judicial Council amended this rule to clarify that the 10 days for filing a petition for review of a case in the California Supreme Court begins to run from the 30th day following the Court of Appeal decision, regardless of the day of the week on which the 30th day falls.

July 1996 – Rules 15, 28(e)(6), 29.3(a), (c), 37, 40, and 44(a) . . . These rules were amended concerning typography and length of briefs and accompanying explanatory matter, and page limits adjustments.

July 2000 – See note following rule 15.

2002 – See note following rule 1.

Rule 29. Grounds for review in Supreme Court

(a) [Grounds] Review by the Supreme Court of a decision of a Court of Appeal will be ordered

(1) where it appears necessary to secure uniformity of decision or the settlement of important questions of law;

(2) where the Court of Appeal was without jurisdiction of the cause; or

(3) where, because of disqualification or other reason, the decision of the Court of Appeal lacks the concurrence of the required majority of qualified judges.

(Subd (a) amended effective May 6, 1985; previously amended effective November 11, 1966.)

(b) [Limitations] As a matter of policy, on petition for review the Supreme Court normally will not consider:

(1) any issue that could have been but was not timely raised in the briefs filed in the Court of Appeal;

(2) any issue or any material fact that was omitted from or misstated in the opinion of the Court of Appeal, unless the omission or misstatement was called to the attention of the Court of Appeal in a petition for rehearing.

All other issues and facts may be presented in the petition for review without the necessity of filing a petition for rehearing.

(Subd (b) amended effective May 6, 1985; previously amended January 1, 1983.)

Rule 29 amended effective May 6, 1985; previously amended effective January 1, 1983.

Rule 29.2. Issues on review; grant and hold

(a) [Decision on limited issues] On review of the decision of a Court of Appeal, the Supreme Court may review and decide any or all issues in the cause.

(b) [Specification of issues] After granting review of a decision of a Court of Appeal, the Supreme Court may specify the issues to be argued. Unless otherwise ordered, briefs on the merits and oral argument shall be confined to the specified issues and issues fairly included in them.

Notwithstanding its specification of issues, the Supreme Court may order argument on fewer or additional issues, or on the entire cause. The court shall give the parties reasonable notice of any specification of the issues to be argued and of any change in its specification of issues.

(c) [Grant and hold] After granting review of a decision of a Court of Appeal, the Supreme Court may order action on the cause deferred until disposition of another cause pending before the court.

Rule 29.2 adopted effective May 6, 1985.

Advisory Committee Comment

Under subdivision (a) the Supreme Court may determine – either immediately after granting review or at any time before completion of its opinion – that only one or a limited number of issues in the cause require decision by the Supreme Court. Unless the court wishes to limit argument by an order issued under subdivision (b), no prior notice of the court's intention to decide the cause on less than all issues is required. The parties are not prejudiced as they have *not* been told to omit argument on any issue. If the Supreme Court decides only limited issues, other issues in the cause will be disposed of by the Court of Appeal as the Supreme Court directs. If the Court of Appeal is not directed to take further action, the original Court of Appeal resolution of the other issues stands as between the parties. See rule

977 on the precedential value of the Court of Appeal opinion pending Supreme Court review and after decision by the Supreme Court.

Subdivision (b) may be used by the Supreme Court when its grant of review is intended to permit clarification of specified issues of importance, and permits the court to focus argument on these questions. The court is not limited by its preliminary specification of issues, however.

Rule 29.3. Briefs on the merits in the Supreme Court

(a) [As matter of right] After the filing of an order granting review, the petitioner shall serve and file in the Supreme Court the number of copies required by rule 44(b)(1)(ii) of either

(1) the brief filed in the Court of Appeal and a notice of intention to rely on that brief, within 15 days after the filing of the order; or

(2) a new brief on the merits, within 30 days after the filing of the order.

After the filing of the petitioner's notice of intention to rely on the brief filed in the Court of Appeal or new brief on the merits, or the expiration of time for filing a new brief, the opposing party shall serve and file in the Supreme Court the number of copies required by rule 44(b)(1)(ii) of either (1) the brief filed in the Court of Appeal and a notice of intention to rely on that brief, within 15 days after the filing of the petitioner's notice or brief, or expiration of the time for it; or (2) a new brief on the merits, within 30 days after the filing of the petitioner's notice or brief, or expiration of the time for it.

Within 20 days after the filing of an opposing party's brief, the petitioner may file a reply brief.

The Supreme Court may, by order, designate which party is deemed to be the petitioner or otherwise direct the order in which briefs are to be filed.

When a party desires to present new authorities, newly enacted legislation, or other intervening matters, not available in time to have been included in the party's brief on the merits, the party may serve and file a supplemental brief no later than 10 days before oral argument. A supplemental brief shall be confined to the new matter and shall not exceed 10 pages.

The times stated in this rule may be extended only by order of the Chief Justice under rule 45, and not by stipulation.

(Subd (a) amended effective July 1, 1996; adopted effective May 6, 1985; previously amended effective January 1, 1992.)

(b) [On request] The Supreme Court may request additional briefs on all or any issues, whether or not the parties have filed new briefs.

(c) [Amicus curiae briefs] A brief of amicus curiae in the Supreme Court on the merits of an action or proceeding may be filed on permission first obtained from the Chief Justice. To obtain permission, the applicant shall file with the clerk of the Supreme Court a signed request, accompanied by the proposed brief, stating the nature of the applicant's interest and setting forth facts or questions of law that have not adequately been presented by the parties and their relevancy to the disposition of the case. The request and proposed brief must be received by the court no later than 30 days after all briefs, other than supplemental briefs, that the parties are entitled to file pursuant to this rule either have been filed or can no longer be filed within the time limits prescribed by subdivision (a). The Chief Justice may grant leave for later filing if the applicant presents specific and compelling reasons for the delay.

The Attorney General may file an amicus curiae brief without obtaining the Chief Justice's permission, unless the Attorney General is presenting the brief on behalf of another state officer or agency. The Attorney General shall file the brief within the time provided above for receipt of a request for permission to file an amicus curiae brief. The brief shall contain the information required in a request for permission to file an amicus curiae brief.

Before any amicus curiae brief is filed, it shall be served on all parties. The cover of the brief shall identify the party—if any—the brief supports.

Any party may file an answer within 20 days after an amicus curiae brief is filed. Before any answer is filed, it shall be served on all parties and the amicus curiae.

(Subd (c) adopted effective January 1, 2002.)

(d) [Form and content] The briefs provided for in this rule shall conform, as nearly as possible, to the requirements of rule 14. Unless otherwise ordered, the petitioner's and opposing party's briefs on the merits shall not exceed 50 pages, and a petitioner's reply brief shall not exceed 15 pages, excluding tables, indices, and the quotation of issues required by this rule.

The petitioner's brief on the merits, at the beginning of the body, shall quote any order of the Supreme Court specifying the issues or, in the absence of an order specifying the issues, quote the statement of issues included in the petition for review and any additional issues stated in the answer to the

petition. Unless otherwise ordered, briefs on the merits shall be confined to those issues, and issues fairly included in them.

(Subd (d) relettered and amended effective January 1, 2002; adopted as subd (c) effective May 6, 1985; previously amended July 1, 1996.)

Rule 29 amended effective January 1, 2002; adopted effective May 6, 1985; previously amended effective January 1, 1992, and July 1, 1996.

Advisory Committee Comment (2002)

New subdivision (c) is derived from the second through fifth paragraphs of former rule 14(b).

Advisory Committee Comment

This rule is adapted from United States Supreme Court rule 34.1(a) (statement of issues) and rule 35 (timing of briefs).

Drafter's Notes
1992 See note following rule 5.

1996 Rules 15, 28(e)(6), 29.3(a), (c), 37, 40, and 44(a) . . . These rules were amended concerning typography and length of briefs and accompanying explanatory matter, and page limits adjustments.

2002 See note following rule 1.

Rule 29.4. Disposition of causes

(a) [Decision of cause on review] On review of a Court of Appeal decision, unless another disposition is ordered, the judgment of the Supreme Court shall be that the judgment of the Court of Appeal is affirmed, reversed, or modified as the Supreme Court may order.

(b) [Decision of limited issues and transfer for decision of others] In any cause, the Supreme Court may decide one or more issues and transfer the cause to a Court of Appeal for decision of any remaining issues in the cause.

(c) [Dismissal of review] The Supreme Court may dismiss review of a cause as improvidently granted and remand the cause to the Court of Appeal. The order of dismissal and remand is final forthwith and shall be sent by the clerk to all parties and to the Court of Appeal. On filing of the order in the Court of Appeal, the decision of the Court of Appeal shall become final and the clerk of the Court of Appeal shall issue a remittitur forthwith. The opinion of the Court of Appeal remains unpublished, under rule 976(d), unless the Supreme Court expressly orders otherwise.

(Subd (c) amended effective January 1, 1994.)

(d) [Retransfer of cause not decided] After transferring to itself, before decision, a cause pending in a Court of Appeal, the Supreme Court may retransfer the cause to a Court of Appeal upon deciding that transfer was improvidently ordered.

(e) [Transfer with instructions] After granting review of a decision of a Court of Appeal, the Supreme Court may transfer the cause to a Court of Appeal with instructions to conduct such further proceedings as the Supreme Court deems necessary.

(f) [New briefs after transfer] If a cause is transferred from the Supreme Court to the Court of Appeal for further proceedings, a party may, within 30 days after the Supreme Court's order, serve and file in the Court of Appeal a supplemental brief. Supplemental briefs shall be limited to matters arising after the previous decision of the Court of Appeal unless the presiding justice permits briefing on other matters.

This subdivision does not apply if the previous decision of the Court of Appeal was a denial of a petition for a writ within its original jurisdiction without issuance of an alternative writ or order to show cause.

(Subd (f) adopted effective July 1, 1989.)

Rule 29.4 amended effective January 1, 1994; adopted effective May 6, 1985; previously amended effective July 1, 1989.

Advisory Committee Comment

Subdivision (a) emphasizes the major change effected by the recent amendment of Constitution article VI, section 12: the usual judgment of the Supreme Court on review will be that the Court of Appeal judgment is affirmed, reversed or modified. (Under prior practice, the *Court of Appeal* judgment having been vacated and nullified by the grant of hearing, it was the *trial* court judgment that the Supreme Court affirmed, reversed or modified upon its decision of an appeal.)

Subdivision (b) clarifies the power of the Supreme Court to decide only those issues that it deems of major importance, and then transfer the cause to a Court of Appeal for final resolution. This is, in effect, a special form of transfer with instructions. The application of this procedure to a cause transferred to the Supreme Court before decision is obvious, where the Supreme Court resolves a key question of law, but the outcome of the cause may depend on a review of factual questions in the record. On review of a Court of Appeal decision, this procedure is most likely to be used when the original Court of Appeal opinion did not reach issues because it reversed on an overriding ground (e.g., statute of limitations) that the Supreme Court determines to be erroneous.

If the Supreme Court dismisses review as improvidently granted under subdivision (c), the cause is restored to the posture it had before the Supreme Court granted review: the decision of the Court of Appeal is final. If the Supreme Court wishes to reconfer jurisdiction on the Court of Appeal, it will do so by transfer under subdivision (b), (d), or (e).

Drafter's Notes

1989 Rule 29.4 was amended to authorize, in causes transferred from the Supreme Court to a Court of Appeal, supplemental briefing limited to matters that arose after the date of the original Court of Appeal decision, unless the presiding justice permits briefing on other matters.

1994 Rule 29.4 is amended to state explicitly, that when review is dismissed, a Court of Appeal decision is *not* restored to a "published" status unless the Supreme Court expressly so orders, and that the dismissal order is final forthwith.

Rule 29.5. Questions of state law certified by federal appellate courts and other courts

(a) [Requirements for certified questions] The California Supreme Court may answer questions of law certified to it by the Supreme Court of the United States, a United States Court of Appeals, or the court of last resort of any state, territory, or commonwealth, provided that:

(1) the certifying court requests the answer;

(2) the questions may be determinative of a cause pending in the certifying court; and

(3) the decisions of the California appellate courts provide no controlling precedent concerning the certified question.

(b) [Contents of certification request] Only a court specified in subdivision (a) may certify a question. The request shall be by an order that sets forth:

(1) the caption of the case, including names and addresses of counsel and of parties appearing pro se, and a designation of the party to be deemed the petitioner on the certified question if the request to answer is granted;

(2) the questions of law to be answered;

(3) a statement (by stipulation of the parties subject to approval by the certifying court, or by the court itself) of all facts relevant to the certified question, and showing fully the nature of the controversy and the circumstances in which the question arose;

(4) statements (i) demonstrating that the question certified is contested and that there is no controlling precedent in the case law of the California appellate courts; (ii) explaining how an authoritative answer to the certified question may be determinative of a cause pending in the certifying court; and (iii) indicating that the answer provided by the California Supreme Court will be followed by the certifying court; and

(5) such additional information as the certifying court may deem relevant and useful.

(c) [Briefs and other materials] The certifying court shall furnish legible copies of all relevant briefs to the California Supreme Court with the request for an answer to the certified question. The California Supreme Court may request that the certifying court furnish additional material, such as exhibits or all or a portion of the record that, in the opinion of the court, may be useful in answering the certified question.

(d) [Request procedure] The judge or justice presiding at the certification hearing (if any) or the presiding judge or justice of the court or panel certifying the question shall sign the request for an answer to the certified question. The clerk of the certifying court shall forward the request under its official seal to the California Supreme Court with a certificate that the clerk has served the request on the parties.

(Subd (d) amended effective January 1, 2000.)

(e) [Supporting or opposing the request]

(1) Within 20 days after the request for an answer to a certified question is filed in the California Supreme Court, a party may file a brief supporting or opposing the request.

(2) The brief may request that the California Supreme Court restate the certified question under subdivision (g). If a brief makes that request, it shall state a proposed restatement of the question at the beginning of the body of the brief.

(3) The brief shall state on its cover whether the brief supports or opposes the request and whether it requests restatement of the question.

(4) A party may reply to another party's brief within 10 days after the brief is filed.

(5) A brief or reply shall be served on each party and on the requesting court.

(6) Any other person or entity wanting to support or oppose a request for an answer to a certified question shall lodge a letter in the Supreme Court instead of a brief of amicus curiae. The letter shall comply with rule 28(f).

(Subd (e) amended effective January 1, 2002; adopted effective January 1, 2000.)

(f) [Factors that may be considered] The California Supreme Court shall have discretion to accept or deny the request for an answer to the certified question of law. In exercising its discretion the court may consider:

(1) factors that it ordinarily considers in deciding whether to grant review of a decision of a California Court of Appeal or to issue an alternative writ or other order in an original matter;

(2) comity, and whether answering the question will facilitate the certifying court's functioning or help terminate existing litigation;

(3) the extent to which an answer would turn on questions of fact; and

(4) any other factors the court may deem appropriate.

(Subd (f) relettered effective January 1, 2000; adopted effective January 1, 1998, as subd (e).)

(g) [Clarification of question] At any time, the California Supreme Court may restate the certified question or may ask the certifying court to restate or clarify the certified question.

(Subd (g) relettered effective January 1, 2000; adopted effective January 1, 1998, as subd (f).)

(h) [Order denying or accepting request] The California Supreme Court shall issue an order accepting or denying the request for an answer to the certified question. If the court accepts the request, it shall announce that determination in the manner that it announces the acceptance of cases for review, and thereafter:

(1) the California Rules of Court for briefing, argument, and conduct of appeals shall govern further proceedings on any certified question unless the court or the Judicial Council otherwise provides;

(2) fees and costs shall be the same as in appeals docketed before the California Supreme Court and, in civil matters, shall be equally divided between or among the parties unless the certifying court in its request for an answer to the certified question provides for a different allocation, or the California Supreme Court provides otherwise; and

(3) the California Supreme Court may in its discretion assign a certified question such priority on its docket as considerations of fairness, exigency, and comity may require.

(Subd (h) relettered effective January 1, 2000; adopted effective January 1, 1998, as subd (g).)

(i) [Notice to California Attorney General] If the certified question concerns the proper interpretation of a California statute, in litigation in which the State of California or an officer, agency, or employee of the state is not a party, the clerk of the California Supreme Court shall notify the California Attorney General and the California Supreme Court may permit him or her to file briefs on the issue.

(Subd (i) relettered effective January 1, 2000; adopted effective January 1, 1998, as subd (h).)

(j) [Transmission of opinion] The clerk shall forward the California Supreme Court's written opinion stating the law governing the certified question to the certifying court, under the seal of the Supreme Court, and also shall forward copies of the opinion to counsel of record.

(Subd (j) relettered effective January 1, 2000; adopted effective January 1, 1998, as subd (i).)

(k) [Publication and precedential effect] The California Supreme Court's answer to a certified question shall have the same authoritative and precedential force as any other decision of the court, and shall be published in the Official Reports.

(Subd (k) relettered effective January 1, 2000; adopted effective January 1, 1998, as subd (j).)

(*l*) [Procedural rules] The California Supreme Court or the Judicial Council may adopt procedures governing practice under this rule.

(Subd (l) relettered effective January 1, 2000; adopted effective January 1, 1998, as subd (k).)

Rule 29.5 amended effective January 1, 2002; adopted effective January 1, 1998; previously amended effective January 1, 2000.

Advisory Committee Comment (2002)

New subdivision (e)(6) is derived from the first paragraph of former rule 14(b).

Drafter's Notes

1998 This rule establishes a procedure for the California Supreme Court to answer questions of state law certified to it by the Supreme Court of the United States, a United States Court of Appeals, or the court of last resort of any state, territory, or commonwealth. Federal courts may certify questions of state law to the highest court for a definitive answer in more than 40 states. With the adoption of this rule all states in the Ninth Circuit now have a procedure for answering questions of state law from federal courts or courts of other states.

2000 Amended rules 14 and 29.5 will provide a procedure for parties and amici curiae to submit briefs in support or opposition on whether the Supreme Court should accept a request to answer a question of law certified to it by a federal or sister-state court.

2002 See note following rule 1.

Rule 29.6. Errors in terminology to be disregarded; rule of construction

(a) [Errors in terminology] A petition to the Supreme Court for transfer, hearing or review shall be liberally construed as a request for the appropriate relief.

(b) [Construction of "hearing"] A reference in the statutes or rules of this state to "hearing" in the Supreme Court includes review by the Supreme Court of a Court of Appeal decision unless the context or circumstances indicate a contrary intent.

Rule 29.6 adopted effective May 6, 1985.

Advisory Committee Comment

Subdivision (a) of this rule follows the general policy of liberal construction for the purpose of granting or denying relief on the basis of the circumstances well pleaded rather than the technical form or prayer of the petition. It is added because of the anticipation that mistakes in terminology will occur before the new constitutional procedure is fully understood.

Rule 29.9. Transitional provisions

Unless otherwise ordered by the Supreme Court:

(a) [Remittitur] If hearing is granted before May 6, 1985, the remittitur shall issue as provided in rule 25 as it existed before that date. If review is granted on or

after May 6, 1985, the remittitur shall issue as provided in rule 25 as amended effective that date.

(b) [Transfer before decision] New rule 27.5 applies to all causes pending in the Courts of Appeal on and after May 6, 1985.

(c) [Whether hearing or review granted] If the Supreme Court grants hearing before May 6, 1985, the cause is before the Supreme Court on hearing for all purposes until its final disposition by the Supreme Court, unless otherwise provided in this rule, or by order of the Supreme Court.

Any timely petition for hearing pending on May 6, 1985, is deemed a petition for review without further action by the petitioner, and is subject to the rules and amendments adopted effective May 6, 1985. The court may direct a petitioner or opposing party to file a statement of issues conforming to rule 28(e)(2).

(d) [Time for ordering review] The Supreme Court may, within the time provided in rule 28 as amended effective May 6, 1985, order review of the decision of a Court of Appeal in any cause decided by a Court of Appeal before or after that date.

If this subdivision has the effect of expanding the time within which the court may order review, no order is needed to effectuate that expansion of time.

This subdivision shall not reduce the amount of time to a period less than the time within which the court could have granted a hearing under rule 28 as it existed prior to May 6, 1985, and shall not shorten the time allowed under any valid extension of time ordered before that date.

(e) [Time for filing petition and answer] If the time for filing a petition for hearing expires before May 6, 1985, the Chief Justice may relieve a party from a default for failure to file a timely petition and extend the time, to allow the petition for review to be filed no more than 30 days after the decision of the Court of Appeal becomes final as to that court.

(f) [Form of petition and answer] Until August 1, 1985, any petition for review or answer that does not conform to rule 28(e) as added effective May 6, 1985, but that conforms to rule 28(d) as it existed before that date, shall be accepted for filing as a matter of course. The court may direct a petitioner or opposing party to file a statement of issues conforming to rule 28(e)(2).

~~**(g) [Briefs on the merits]** New rule 29.3 is applicable to all causes in which review is ordered on or after May 6, 1985. If proceedings in the Supreme Court were initiated by a petition for hearing, a party may serve and file notice of intention to rely on the petition for hearing or answer in lieu of a~~

~~*Rule 29.9 adopted effective May 6, 1985.*~~

Rule 36.1. Transmitting exhibits in death penalty appeals

(a) Application

Except as provided in this rule, rule 18 governs the transmission of exhibits to the Supreme Court in death penalty appeals.

(b) Time to file notice of designation

No party may file a notice designating exhibits under rule 18(a) until the Supreme Court clerk notifies the parties of the time and place of oral argument.

Rule 36.1 adopted effective January 1, 2003.

Advisory Committee Comment (2003)

New rule 36.1(b) restates without change the first clause of former rule 10(d) insofar as it applies to death penalty appeals.

Rule 36.2. Oral argument and submission of the cause in death penalty appeals

(a) Application

Except as provided in this rule, rule 29.2 governs oral argument and submission of the cause in the Supreme Court in death penalty appeals unless the court provides otherwise in its Internal Operating Practices and Procedures or by order.

(b) Procedure

(1) The appellant has the right to open and close.

(2) Each side is allowed 45 minutes for argument.

(3) Two counsel may argue on each side if, not later than 10 days before the date of the argument, they notify the court that the case requires it.

Rule 36.2 adopted effective January 1, 2003.

Advisory Committee Comment (2003)

New rule 36.2(b) restates without change former rule 22 insofar as it applies to death penalty appeals.

Rule 40. Definitions

(a)–(j) ***

(k) "Date of filing" of a brief (as defined in subdivision (i)~~(k)~~) is the date of delivery to the clerk's office during normal business hours. The brief is timely, however, if the time for its filing had not expired on the date of its mailing by certified or express mail as shown on the postal receipt or postmark, or the date of its delivery to a common carrier promising overnight delivery as shown on the carrier's receipt.

(Subd (k) amended effective January 1, 2003.)

(*l*) * * *

Rule 40 amended effective January 1, 2003; previously amended effective January 1, 1983, July 1, 1989, July 1, 1991, January 1, 1994, July 1, 1996, January 1, 1998, and January 1, 2002.

Rule 45. Extension and shortening of time

(a)–(e) * * *

(f) [Notification to client] Counsel in civil cases ~~shall~~ must mail or otherwise deliver to the party represented a copy of each stipulation or application for additional time for a step in the preparation of the record or for filing briefs, and ~~affix~~ attach evidence of doing so to the application or stipulation or certify in the stipulation or application that they have done so. In class actions, delivering a copy to one represented party is adequate. The evidence or certification of mailing or other delivery need not state the address of ~~the~~ any party to whom copies were sent.

(Subd (f) amended effective January 1, 2003; adopted effective July 1, 1990.)

Rule 45 amended effective January 1, 2003; adopted effective july 1, 1943; previously amended effective January 1, 1951, January 1, 1957, January 1, 1961, January 1, 1962, November 11, 1966, January 1, 1974, January 1, 1976, January 1, 1979, May 6, 1985, July 1, 1989, and July 1, 1990.

Rule 47.1 Transfer of causes

(a) Transfer by Supreme Court

(1) The Supreme Court may transfer a cause:

(A) to itself from a Court of Appeal;

(B) from itself to a Court of Appeal;

(C) between Courts of Appeal; or

(D) between divisions of a Court of Appeal.

(2) The clerk of the transferee court must promptly send each party a copy of the transfer order with the new case number, if any.

(b) Transfer by a Court of Appeal administrative presiding justice

(1) A Court of Appeal administrative presiding justice may transfer causes between divisions of that court as follows:

(A) If multiple appeals or writ petitions arise from the same trial court action or proceeding, the presiding justice may transfer the later appeals or petitions to the division assigned the first appeal or petition.

(B) If, because of recusals, a division does not have three justices qualified to decide a cause, the presiding justice may transfer it to a division randomly selected by the clerk.

(2) The clerk must promptly notify the parties of the division to which the cause was transferred.

Rule 47.1 adopted effective January 1, 2003.

Advisory Committee Comment (2003)

New rule 47.1 is former rule 20.

Subdivision (a). Like former rule 20(a), rule 47.1(a)(1) implements article VI, section 12(a) of the Constitution. As used in article VI, section 12(a), and in the rule, the term "cause" is broadly construed to include " 'all cases, matters, and proceedings of every description' " adjudicated by the Courts of Appeal and the Supreme Court. (*In re Rose* (2000) 22 Cal.4th 430, 540, quoting *In re Wells* (1917) 174 Cal. 467, 471.)

Rule 47.1(a)(1)(A) authorizes the Supreme Court to transfer a cause to itself from the Court of Appeal before that court decides the matter. Like former rule 20, it is intended to apply primarily to two types of cases: (i) those in which the Supreme Court transfers a cause to itself for the purpose of reaching a decision on the merits (revised rule 29.9) and (ii) those in which the Supreme Court transfers a cause to itself for the purpose of retransferring the matter to the Court of Appeal for such proceedings as the Supreme Court may order (compare revised rule 28(b)(4) [ordering review for same purpose]).

Former rule 20(a) required the clerk of a court from which a case was transferred to immediately send the record, with any briefs and exhibits, to the transferee court. Because it may be assumed that the clerk of the transferring court will promptly send the record to the transferee court in any event, rule 47.1(a) deletes this directive as unnecessary micromanagement of the clerk's office. It is not a substantive change.

Government Code section 68915 provides that an appeal taken to the wrong court must not be dismissed but must be transferred to the proper court. Under rule 47.1(a)(1), as under former rule 20(a), only the Supreme Court may transfer causes between Courts of Appeal. Accordingly, if an appellant files an appeal in the wrong appellate district, that Court of Appeal will request the Supreme Court to order the cause transferred to the proper district. However, former rule 20(a) further provided that the transfer order "may direct the appellant to pay the clerk of the court to which the cause is transferred the fee required by law for the filing of the record in the first instance" and authorized the sanction of dismissal if that fee was not paid within a specified time period. Rule 47.1 deletes these provisions as unnecessary micromanagement of the clerk's offices of both the transferring and transferee courts. The statute requires only that the cause be transferred "upon such terms as to costs or otherwise as may be just" (Gov. Code, § 68915). The rules governing payment of record preparation costs (e.g., rules 4 and 5) and governing sanctions for failure to do so (e.g., rule 8) are adequate to deal with the rare event in which an appeal is taken to the wrong court.

Subdivision (b). New rule 47.1(b) is former rule 20(b), with two nonsubstantive changes.

First, subdivision (b)(1)(A) clarifies its scope by substituting "multiple appeals or writ petitions" for "causes."

Second, subdivision (b)(1)(B) provides only that if, because of recusals, a division does not have three justices qualified to decide a case, the presiding justice may transfer the case to a division "randomly selected by the clerk." Former rule 20(b) added two further requirements: the clerk was required to notify the parties of "the method used in selecting" the new division, and that method was required to be "fair" and could not "permit the transfer to be used to affect the decision of the cause." Rule 47.1 deletes these requirements as unnecessary in a truly random selection process.

Rule 56.5. Original proceedings seeking release or modification of custody

(a) A petition to a reviewing court for a writ of habeas corpus, or for any other writ within its original jurisdiction, seeking the release from or modification of the conditions of custody of one who is confined under the process of any court of this State in a State or local penal institution, hospital, narcotics treatment facility, or other institution ~~shall~~must be on a form ~~approved~~adopted by the Judicial Council. Any such petition ~~shall be~~is exempt from the

provisions of rule 56 relating to form and content of a petition and requiring a petition to be accompanied by points and authorities.

(Subd (a) amended effective January 1, 2003.)

(b) * * *

(c) [Petitions filed by attorneys ~~in death penalty cases~~] If the petition is filed by an attorney~~, and challenges a judgment of death or the validity of the conviction of a person sentenced to death, or seeks a stay of execution of a judgment of death~~:

(1) The petition need not be on the form specified in ~~rule 56.5~~(a)~~,~~ but ~~shall~~must contain the pertinent information specified in that form~~,~~ and ~~shall~~must comply with the requirements of rule ~~44(a)~~14 (a) and (b);

~~(2) The petition shall comply with the requirements of rule 15(a);~~

(~~3~~2) If the petition is accompanied by a memorandum of points and authorities, the memorandum ~~shall~~must comply with the requirements of rule ~~15~~14(a); and

(~~4~~3) The petition ~~shall~~must be accompanied by a lodged copy of any related petition (excluding exhibits) previously filed in any lower state court, or in any federal court, pertaining to the same judgment and petitioner. If such documents have previously been lodged with the Supreme Court, the petition need only so state.

(Subd (c) amended effective January 1, 2003; adopted effective July 1, 1995.)

(d) [Nonconforming petitions] A petition~~, whether or~~ that is not in technical compliance with (c)~~this subdivision,~~ but that is otherwise in compliance with applicable court rules~~, shall~~ that must be accepted and filed. It may be stricken, however, if the noncompliance is not cured promptly on request of the clerk.

(Subd (d) amendedand relettered effective January 1, 2003; adopted as part of subd (c) effective July 1, 1995.)

Rule 56.5 amended effective January 1, 2003; adopted effective January 1, 1966; previously amended effective July 1, 1995.

CHAPTER 3. Rules on Transfer of Cases From the Superior Court Appellate Division to the Court of Appeal

Title One, Appellate Rules—Division I, Rules Relating to the Supreme Court and Courts of Appeal—Chapter 3, Rules on Transfer of Cases From the Superior Court Appellate Division to the Court of Appeal; amended effective January 1, 2003; adopted effective January 2, 1962

Rule 61. Scope of rules

Rules 61 through 69 govern proceedings for transferring cases within the appellate jurisdiction of the superior court—other than appeals in small claims cases—to the Court of Appeal for review. Unless the context requires otherwise, the term "case" as used in these rules means cases within that jurisdiction.

Rule 61 repealed and adopted effective January 1, 2003.

Rule 62. Transfer authority

A Court of Appeal may order a case transferred to it for hearing and decision if the appellate division certifies under rule 63—or the Court of Appeal determines under rule 64—that transfer is necessary to secure uniformity of decision or to settle an important question of law.

Rule 62 repealed and adopted effective January 1, 2003.

Rule 63. Certification

(a) Authority to certify

(1) The appellate division may certify a case for transfer to the Court of Appeal on its own motion or on a party's application.

(2) A case may be certified by a majority of the appellate division judges to whom the case has been assigned or who decided the appeal or, if the case has not yet been assigned, by any two judges of the appellate division. If any of the assigned or deciding appellate division judges is unable to act on the certification, then a judge designated or assigned to the appellate division by the chairperson of the Judicial Council may act in his or her place.

(b) Application for certification

(1) A party may serve and file an application for certification at any time after the record on appeal is filed in the appellate division and within 15 days after judgment is pronounced or a modification order changing the appellate judgment is filed. The party may include the application in a petition for rehearing.

(2) The application must explain why transfer is necessary to secure uniformity of decision or to settle an important question of law.

(3) Within five days after the application is filed, any other party may serve and file an opposition.

(4) No hearing will be held on the application. Failure to certify the case is deemed a denial of the application.

(c) Finality of appellate division judgments

An appellate division judgment is final in that court as provided in rule 107.

(d) Time to certify

A case may be certified at any time after the record on appeal is filed in the appellate division and before the appellate division judgment is final in that court.

(e) Contents of certification

A certification must:

(1) briefly describe any conflict of decision—citing the decisions creating the conflict—or important question of law to be settled; and

(2) state whether there was a judgment on appeal and, if so, its date and disposition.

(f) Superior court clerk's duties

(1) If the appellate division orders certification, the clerk must promptly send a copy of the order to the Court of Appeal clerk, the parties, and, in a criminal case, the Attorney General.

(2) If the appellate division denies an application by order, the clerk must promptly send a copy to the parties.

Rule 63 repealed and adopted effective January 1, 2003.

Rule 64. Transfer

(a) Authority to transfer on Court of Appeal's own motion or a party's petition

The Court of Appeal may order transfer of a case on the court's own motion or on a party's petition to transfer.

(b) Petition to transfer

(1) If the appellate division denies an application for certification and does not certify its opinion for publication, a party may serve and file in the Court of Appeal a petition to transfer the case to that court.

(2) The petition must be served and filed within eight days after the appellate division judgment is final in that court and must show delivery of a copy to the appellate division.

(3) The petition must explain why transfer is necessary to secure uniformity of opinion or to settle an important question of law.

(4) Within seven days after the petition is filed, any other party may serve and file an answer.

(5) The petition and any answer must comply as nearly as possible with rule 28(e).

(c) Time to transfer

(1) The Court of Appeal may order transfer:

(A) after certification or on its own motion, within 20 days after the record on transfer is filed in the Court of Appeal; or

(B) on petition to transfer, within 20 days after the petition is filed.

(2) Within either period specified in (1), the Court of Appeal may order an extension not exceeding 20 days.

(3) If the Court of Appeal does not timely order transfer, transfer is deemed denied.

(d) Letter supporting or opposing transfer

(1) Except when a party files a petition to transfer under (b), any party may send the Court of Appeal a letter supporting or opposing transfer within 10 days after a record on transfer is filed in that court. The letter must be served on all other parties.

(2) The letter must be double-spaced and must not exceed 1,400 words if produced on a computer or five pages if typewritten.

(e) Limitation of issues

(1) On or after ordering transfer, the Court of Appeal may specify the issues to be briefed and argued. Unless the court orders otherwise, the parties must limit their briefs and arguments to those issues and any issues fairly included in those issues.

(2) Notwithstanding an order specifying issues under (1), the court may, on reasonable notice, order oral argument on fewer or additional issues or on the entire case.

(f) Court of Appeal clerk's duties

(1) When a transfer order is filed, the clerk must promptly send a copy to the superior court clerk, the parties, and, in a criminal case, the Attorney General.

(2) With the copy of the transfer order sent to the parties and the Attorney General, the clerk must send notice of the time to serve and file any briefs ordered under rule 66 and, if specified by the Court of Appeal, the issues to be briefed and argued.

(3) If the court denies transfer after certification or petition, the clerk must return the record on transfer and any exhibits to the superior court clerk and promptly send notice of the denial to the parties and, in a criminal case, the Attorney General.

(4) Failure to send any order or notice under this subdivision does not affect the jurisdiction of the Court of Appeal.

Rule 64 repealed and adopted effective January 1, 2003.

Rule 65. Record on transfer

(a) Contents

The record on transfer must contain:

(1) the original record on appeal prepared under rules 124–132 in a limited civil case or under rules 183–185 in a criminal case;

(2) any briefs filed in the appellate division; and

(3) any order or opinion of the appellate division.

(b) Clerks' duties

(1) The superior court clerk must promptly send the record on transfer to the Court of Appeal and notify the parties that the record was sent when:

(A) the appellate division certifies a case;

(B) the superior court clerk sends a copy of an appellate division opinion certified for publication to the Court of Appeal under rule 106;

(C) the superior court clerk receives a copy of a petition to transfer; or

(D) the superior court receives a request from the Court of Appeal for the record on transfer.

(2) The Court of Appeal clerk must promptly notify the parties when the record on transfer is filed.

Rule 65 repealed and adopted effective January 1, 2003.

Rule 66. Briefs

(a) Who may file

(1) After transfer, the parties may file briefs in the Court of Appeal only if ordered on a party's application or the court's own motion. The court must prescribe the briefing sequence in any briefing order.

(2) Instead of filing a brief, or as part of its brief, a party may join in or adopt by reference all or part of a brief in the same or a related case.

(b) Time to file

(1) The opening brief must be served and filed within 20 days after entry of the briefing order.

(2) The responding brief must be served and filed within 20 days after the opening brief is filed.

(3) Any reply brief must be served and filed within 10 days after the responding brief is filed.

(c) Additional service requirements

(1) Any brief of a defendant in a criminal case must be served on the prosecuting attorney and the Attorney General.

(2) Every brief must show delivery of a copy to the appellate division from which the case was transferred.

(d) Form

No brief may exceed 5,600 words if produced on a computer or 20 pages if typewritten. In all other respects briefs must comply with rule 14.

Rule 66 repealed and adopted effective January 1, 2003.

Rule 67. Proceedings in the appellate division after certification

When the appellate division certifies a case or the Court of Appeal orders transfer, further action by the appellate division is limited to preparing and sending the record until termination of the proceedings in the Court of Appeal.

Rule 67 repealed and adopted effective January 1, 2003.

Rule 68. Disposition of transferred case

(a) Decision on limited issues

The Court of Appeal may decide fewer than all the issues raised and may retransfer the case to the appellate division for decision on any remaining issues.

(b) Retransfer without decision

(1) The Court of Appeal may vacate a transfer order without decision and retransfer the case to the appellate division with or without directions to conduct further proceedings.

(2) If the appellate division pronounced judgment before transfer and the Court of Appeal directs no further proceedings, the judgment is final when the appellate division receives the order vacating transfer and its clerk must promptly issue a remittitur.

Rule 68 repealed and adopted effective January 1, 2003.

Rule 69. Remittitur

(a) Court of Appeal remittitur

The Court of Appeal clerk must promptly issue a remittitur when a decision of the court is final. The clerk must address the remittitur to the appellate division and send that court two copies of the remittitur and two file-stamped copies of the Court of Appeal opinion or order.

(b) Appellate division remittitur

On receiving the Court of Appeal remittitur, the appellate division clerk must promptly issue a remittitur if there will be no further proceedings in that court.

(c) Documents to be returned

Each reviewing court clerk must return all original records, documents, and exhibits with the remittitur but need not return any certification, transcripts on appeal, briefs, or notice of appeal.

Rule 69 repealed and adopted effective January 1, 2003.

Rule 106. Decisions

(a) Time to decide

The appellate division must hear and decide, or take under submission, each appeal at the session in which it was set for hearing unless, for good cause entered in the minutes, the court continues the case to another date or orders it submitted on briefs to be filed.

(b) Written opinions

Appellate division judges are not required to prepare a written opinion in any case but may do so when they deem it advisable or in the public interest. Appellate division opinions certified for publication must comply to the extent practicable with the *California Style Manual*.

(c) Transmitting opinions

When the judgment is final as to the appellate division in a case in which the opinion is certified for publication, the clerk must immediately send to the Reporter of Decisions two paper copies and one electronic copy in a format approved by the Reporter, and to the Court of Appeal for the district another copy bearing the notation "To be published in the Official Reports." The Court of Appeal clerk must promptly file that copy or make a docket entry showing its receipt.

Rule 106 repealed and adopted effective January 1, 2003.

Rule 107. Finality, modification, and rehearing

(a) When judgment is final

An appellate division judgment is final:

(1) 15 days after judgment is pronounced; or

(2) if a party timely files a petition for rehearing or application for certification, 30 days after judgment is pronounced or when all such petitions or applications are denied, whichever is earlier.

(b) Modification of judgment

The appellate division may modify its judgment until the judgment is final in that court. An order modifying an opinion must state whether it changes the appellate judgment. A modification that does not change the appellate judgment does not extend the time for the judgment's finality. If a modification changes the appellate judgment, the finality period runs from the filing date of the modification order.

(c) Rehearing

(1) On petition of a party or on its own motion, the appellate division may order rehearing at any time before its judgment is final.

(2) A party may serve and file a petition for rehearing within 15 days after judgment is pronounced or a modification order changing the appellate judgment is filed.

(3) Any answer to the petition must be served and filed within 8 days after the petition is filed.

(4) The petition and answer must comply as nearly as possible with rule 14.

(5) If the appellate division orders rehearing, it may place the case on calendar for further argument or submit it for decision.

(d) Extensions of time

The periods specified in this rule may not be extended except as provided in Code of Civil Procedure section 12a.

Rule 107 repealed and adopted effective January 1, 2003.

~~**CHAPTER 3. Rules on Transfer of Municipal and Justice Court Appeals**~~

~~**Rule 61. Definitions**~~

~~In rules 61 to 69, inclusive, relating to transfer of cases on appeal within the original jurisdiction of municipal and justice courts, unless the context or subject matter otherwise requires:~~

(a) "Case" means any case on appeal within the original jurisdiction of a municipal or justice court.

(b) "Trial" includes trial anew pursuant to section 117.10 of the Code of Civil Procedure, trial in the superior court pursuant to section 1469 of the Penal Code, and a new trial.

(c) When a case has been tried in the superior court, "judgment" includes any order from which an appeal could be taken if the case were within the original jurisdiction of the superior court.

(d) "Court of Appeal," "Presiding Justice," and "clerk of the Court of Appeal" shall, if a case is transferred to the Supreme Court, mean "Supreme Court," "Chief Justice," and "clerk of the Supreme Court," respectively.

Rule 62. Transfer

(a) [Cases transferable] A Court of Appeal may order a case transferred to it for hearing and decision when the superior court certifies or the Court of Appeal on its own motion determines from an opinion of the appellate department published or to be published in Advance California Appellate Reports that such transfer appears necessary to secure uniformity of decision or to settle important questions of law.

(b) [Time] A transfer on certification may be ordered within 20 days after the record on transfer is filed in the Court of Appeal unless the proceedings for transfer are previously dismissed pursuant to subdivision (a) of rule 64. A transfer on the Court of Appeal's own motion, as provided in subdivision (a), may be ordered within 20 days after the receipt by the Court of Appeal of the opinion of the appellate department of the superior court bearing the notation that it is to be published.

(c) [Order] The order granting or denying a transfer to a Court of Appeal shall be filed with the clerk of the Court of Appeal, and if no order is made within the time specified in this rule, the transfer shall be deemed denied and the clerk shall enter a notation in the register to that effect.

(d) [Oral argument] Unless oral argument is waived, the case shall be placed on the calendar when the transfer is ordered.

(e) [Notice of order] As soon as an order of transfer is filed, the clerk shall transmit a certified copy thereof to the clerk of the superior court and shall

mail to each party, and to the Attorney General in a criminal case, a notice stating that such order has been filed, the date of oral argument, and when briefs are permitted, the time for filing briefs as provided in rule 65. Upon denial of a transfer on certification, the clerk shall return the record on transfer and any exhibits to the clerk of the superior court and shall mail notice of the denial to each party and, in a criminal case, also to the Attorney General. Failure of the clerk to mail any such notice shall not affect the jurisdiction of the Court of Appeal.

Rule 63. Certification

(a) [Authority to make] The superior court on application of a party or on its own motion may certify that the transfer of a case to the Court of Appeal appears necessary to secure uniformity of decision or to settle important questions of law. The certification may be made by a majority of the judges of the appellate department. When there was a trial in the superior court, the judge who tried the case may make the certification. If any judge of the appellate department who participated in the decision is unable to act on the certification, then a judge designated or assigned to the appellate department by the chairman of the Judicial Council may act in his place. If the judge who tried the case is unable to act, then the certification may be made by a judge designated by the presiding judge or, if there be no presiding judge, by any judge of the court.

(b) [Application for certification] Any party may apply to the superior court for the certification of a case after judgment in that court. If there was no trial in the superior court such application shall be served and filed before the judgment on appeal becomes final as to that court and may be included in any petition for rehearing. If there was a trial in the superior court the application shall be served and filed at least 10 days before expiration of the time for certification. Any other party may serve and file an opposition within five days after the filing of the application. No hearing shall be held on the application and the failure of the court to certify the case shall be deemed a denial of the application.

(c) [Time] The certification of a case in which there is no trial in the superior court shall be filed with the clerk of that court at any time after the record on appeal and the briefs, if any, are filed in the superior court and not later than 10 days after the judgment on appeal becomes final as to that court. The certification of a case in which there was a trial in the superior court shall be filed within 30 days after entry of the judgment or 15 days after service of written notice of entry of the judgment, whichever is earlier, in a civil case, or

within 15 days after rendition of the judgment in a criminal case, unless the time is extended as provided in subdivision (d) of this rule.

(d) [Extension of time] The time for filing the certification of a case shall be extended by new trial proceedings or proceedings to vacate a judgment in the same manner, to the same extent, and for the same period as the time for filing notice of appeal is extended by such proceedings pursuant to rule 3 of the Rules on Appeal.

(e) [Contents] The certification shall contain a brief statement setting forth any conflict of decision (with citation of or reference to decisions creating the conflict, if there is no written opinion by the superior court) or important question of law to be settled and shall state whether there was a judgment in the superior court, and, if so, the nature and the date thereof.

(f) [Transmission] Upon the filing of the certification the clerk of the superior court shall forthwith transmit a certified copy thereof to the clerk of the Court of Appeal and shall mail notice of such certification to each of the parties and also to the Attorney General in a criminal case.

Rule 64. Record

(a) [Contents]

(1) *(When there was no trial in superior court)* In any case in which there was no trial in the superior court the record on transfer shall consist of the original record, briefs, all original papers, pleadings, documents, and exhibits on file in the case, any orders made by the superior court, and a copy of any opinion of the superior court.

(2) *(When there was a trial in superior court)* If there was a trial in the superior court, the record on transfer shall be prepared in a civil case pursuant to rules 4 to 9, inclusive, and in a criminal case pursuant to rules 33 to 36, inclusive, of the Rules on Appeal, as if the case were being appealed from the superior court. The periods of time allowed for doing any act in preparation of the record on transfer shall commence on the fifth day after the clerk's mailing of the notice of certification instead of the date of filing notice of appeal. If neither party performs the acts necessary to procure the preparation and filing of the record in the Court of Appeal within the time allowed therefor or within any valid extension of that time, and such failure is not the fault of any court officer, the

proceedings for transfer may be dismissed on the Court of Appeal's own motion.

(b) [Transmission of record] When a superior court certifies a case or when a Court of Appeal on its own motion orders a case transferred to itself and the clerk of the superior court has received a certified copy of such order, he shall forthwith, or as soon as the record on transfer of a case tried in the superior court is completed, transmit to the clerk of the Court of Appeal the record on transfer, together with any exhibits theretofore designated in the manner provided in rule 10 of the Rules on Appeal. In a criminal case in which there was a trial in the superior court he shall transmit to the Attorney General a copy of each transcript corrected to conform to the original and shall note the date of such transmission on the original transcripts. No undertaking or deposit in lieu thereof shall be transmitted.

Rule 65. Briefs

No brief shall be filed in a case transferred to the Court of Appeal unless provided for herein, except by permission of the Presiding Justice. In a case transferred after a trial in the superior court, the Presiding Justice shall designate which party is the appellant for the purpose of filing briefs, and briefs shall be served and filed within the following periods: appellant's opening brief, within 20 days after entry of the order of transfer; respondent's brief, within 20 days after the filing of appellant's opening brief; appellant's reply brief, if any, within 10 days after the filing of respondent's brief, but not later than the time of oral argument. Any party may join another party or other parties in a brief or may adopt by reference any brief in the same case. All briefs shall be in the style, size, and form prescribed by subdivision (b) of rule 37 of the Rules on Appeal and no brief shall exceed 20 pages, except by permission of the Presiding Justice. No brief shall be filed without proof of the deposit of one copy with the clerk of the superior court from which the case was transferred. In a criminal case every brief of the defendant shall be served on both the district attorney and the Attorney General.

Rule 66. When judgments of superior court on appeal become final

Every judgment of the appellate department of a superior court shall become final as to that court as provided in rule 107 of the rules adopted by the Judicial Council for the appellate departments of the superior court.

~~Rule 67. Stay of proceedings~~

~~Upon the timely filing of a certification by the superior court or an order of transfer on the Court of Appeal's own motion, further action, other than the preparation and transmission of the record, by the superior court in the case shall be stayed until the termination of such proceedings.~~

~~Rule 68. Transmission of remittitur~~

~~The remittitur, upon issuance, shall be transmitted immediately, with a certified copy of the judgment and of the opinion, to the court from which the appeal was originally taken, except that when there was or, as a result of the appeal, will be a trial in the superior court, the remittitur shall be transmitted to that court. All original records, papers, documents, and exhibits, except any certification for transfer, the statement or transcripts on appeal, briefs, and notice of appeal, shall be returned with the remittitur.~~

~~Rule 69. Application of rules~~

~~These rules shall apply~~

~~(a)~~ ~~to any case where there is no right on appeal to a trial anew in the superior court and where the superior court shall not have pronounced judgment before the effective date of these rules, and~~

~~(b)~~ ~~to any case in which there is a trial in the superior court and judgment is entered in a civil case or rendered in a criminal case on or after such effective date.~~

~~Rule 106. Decisions~~

~~Each appeal shall be heard and determined or taken under submission at the session at which it was set for hearing, unless, for good cause to be entered in the minutes, it is continued for hearing to another date, or it is ordered to be submitted on briefs to be filed. The judges of the appellate department shall not be required to write opinions in any cases decided by them, but may do so whenever they deem it advisable or in the public interest. If an opinion is to be published in Advance California Appellate Reports, the clerk immediately upon the judgment in the case becoming final shall transmit two copies of the opinion to the Reporter of Decisions in accordance with Rule 976 and another copy bearing the notation "To be published in Advance California Appellate Reports" to the Court of Appeal for the district.~~

~~**Rule 107. Rehearing and finality of judgments**~~

~~**(a) [Time for rehearing]** At any time before a judgment of an appellate department becomes final, as hereinafter provided, it may vacate such judgment and order a rehearing.~~

~~**(b) [When judgment becomes final]** Unless a rehearing is ordered, every judgment of an appellate department shall become final as follows:~~

~~(1) Upon the expiration of 15 days after the judgment is pronounced, unless a petition for rehearing is filed within that time;~~

~~(2) If a timely petition for rehearing is filed, upon the expiration of 30 days after the judgment is pronounced or upon the denial of all such petitions, whichever is earlier.~~

~~(3) Where the judgment is modified before it becomes final, as above provided, the period specified herein begins to run anew, as of the date of modification; but a change of the opinion without modification of the judgment does not postpone the time when the judgment becomes final.~~

~~**(c) [Petition, answer and determination]** A petition for a rehearing shall be served on all adverse parties before filing, and filed within 15 days after the judgment is pronounced, and shall not be filed unless accompanied by proof of service. An answer to the petition may be served on the petitioning party and filed, if accompanied by proof of service, within eight days after service of the petition. If a rehearing is ordered, the appellate department may place the case on the calendar for further argument or submit it for decision.~~

~~**(d) [Computation of time]** The periods of time specified in this Rule shall be computed as provided in the Code of Civil Procedure, and extended in the cases and to the extent specified by section 12a of said code, but shall not be otherwise extended.~~

Part 1. Application, Definitions, and Timing

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 1, General Provisions—Part I, Applications, Definitions, and Timing; ~~amended effective July 1, 2002~~; adopted effective January 1, 2003. ~~1949; rule 200 included January 1, 2001~~.

Rule 200. Applica~~bility~~tion

~~(a)~~ ~~[Applicability to all trial court cases]~~ The rules in this division apply to all cases in the ~~superior~~ trial courts unless otherwise specified by these rules or by statute.

(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 2002.)

~~(b)~~ ~~[Applicability to limited and unlimited civil cases]~~ ~~The rules in this division apply to all limited and unlimited civil cases unless otherwise specified by these rules or by statute. The definitions of limited civil cases and unlimited civil cases in Code of Civil Procedure sections 85-89 apply to these rules.~~

(Subd (b) repealed effective January 1, 2003.)

Rule 200 amended effective January 1, 2003; adopted effective January 1, 2001 previously amended effective January 1, 2002.

Rule 200.1. Definitions

As used in this title, unless the context or subject matter otherwise requires:

(1) "Case" includes action or proceeding.

(2) "General civil case" means all civil cases except probate, guardianship, conservatorship, family law (including proceedings under the Family Law Act, Uniform Parentage Act, and Uniform Child Custody Jurisdiction Act; freedom from parental custody and control proceedings; and adoption proceedings), juvenile court proceedings, small claims proceedings, unlawful detainer proceedings, and "other civil petitions" as defined by the Judicial Branch Statistical Information Data Collection Standards.

(3) The definitions of "unlimited civil cases" and "limited civil cases" are, for the purposes of these rules, the definitions contained in Code of Civil Procedure section 85 et seq.

(4) Court" means the trial court.

(5) "Local rule" means every rule, regulation, order, policy, or standard of general application adopted by a court to govern practice and procedure in that court or by a judge of the court to govern practice or procedure in that judge's courtroom.

(6) "Judge" includes, as applicable, a judge of the superior court, a commissioner, or a temporary judge.

(7) "Presiding judge" includes the acting presiding judge.

(8) "Party," "applicant," "petitioner," or any other designation of a party includes such party's attorney of record.

(9) "Service." Whenever under these rules a notice or other paper is required to be served on or given to a party, such service or notice must be made on the party's attorney of record if there is one.

(10) The words "serve and file" mean that a paper filed in a court must be accompanied by proof of prior service, in a manner permitted by law, of a copy of the paper on each party.

(11) The terms "written," "writing," "typewritten," and "typewriting" include other methods equivalent in legibility to typewriting.

Rule 200.1 adopted effective January 1, 2003.

Rule 200.2. Construction of terms

(1) The past, present, and future tense each includes the others.

(2) The masculine, feminine, and neutral gender each includes the others.

(3) The singular and plural number each includes the other.

(4) The words "must" and "shall" are mandatory and the word "may" is permissive.

Rule 200.2 adopted effective January 1, 2003.

Rule 200.3. Time for actions

(a) [Computation of time] The time in which any act provided by these rules is to be done is computed by excluding the first day, and including the last, unless the last day is a legal holiday, and then it is also excluded.

(b) [Holidays] If the last day for the performance of any act that is required by these rules to be performed within a specific period of time falls on a legal holiday, then the period is extended to and includes the next day that is not a holiday.

(c) [Extending or shortening time] Unless otherwise provided by law, the court may extend or shorten the time by which a party must perform any act under these rules.

Rule 200.3 adopted effective January 1, 2003.

Part 2. Form and Format of Papers

Title Two, Pretrial and Trial Rules—Division I, Rules for Trial Courts—Chapter 1, General Provisions—Part 2, Form and Format of Papers, ~~amended effective July 1, 2002;~~ adopted effective January 1, 2003. ~~1949; rule 200 included January 1, 2001.~~

Rule 201. Form of papers presented for filing

(a) [Definitions] As used in this rule~~,~~:

(1) ~~The word~~ "Papers" includes all documents, except exhibits or copies of documents, ~~which~~ that are offered for filing in any case ~~in the superior courts~~; but it does not include ~~printed~~ Judicial Council and local court forms ~~furnished by the clerks of the courts other than as provided in subdivision (j)~~, records on appeal ~~from municipal courts~~ in limited civil cases, or briefs filed in ~~the~~ appellate ~~departments~~ divisions.

(2) ~~The word~~ "Recycled" as applied to paper means "recycled paper product" as defined by section 42202 of the Public Resources Code.

(Subd (a) amended effective January 1, 2003; previously amended effective July 1, 1993, and January 1, 1994.)

(b) [Use of recycled paper; certification by attorney or party]

(1) The use of recycled paper is required for the following:

~~(1)~~(A) All original papers filed with the court and all copies of papers, documents, and exhibits, whether filed with the court or served on other parties; and

~~(2) All original forms, whether state or local, filed with the court, and all copies of such forms, whether filed with the court or served on other parties;~~

~~(3)~~(B) The original record on appeal from a limited civil case, any brief filed with the court in a matter to be heard in the appellate division, and all copies of such documents, whether filed with the court or served on other parties.

(2) Whenever the use of recycled paper is required by these rules, the attorney, party, or other person filing or serving a document certifies, by the act of filing or service, that the document was produced on paper purchased as recycled.

(Subd (b) amended effective January 1, 2003; adopted effective July 1, 1999.)

(c) [Size of paper~~, pagination, etc. and~~ type style, and print color]

(1) All papers ~~shall~~ must be typewritten or printed~~,~~ or be prepared by a photocopying or other duplication process that will produce clear and permanent copies equally legible to printing~~,~~ in type not smaller than 12 points, on opaque, unglazed paper, white or unbleached, of standard quality not less than 20-pound weight, 8 ½ by 11 inches ~~in size~~.

(2) The typeface ~~shall~~ must be essentially equivalent to Courier, Times Roman, or Helvetica.

(3) The color of print ~~shall~~ must be blue-black or black.

(Subd (c) amended effective January 1, 2003; previously amended and relettered effective July 1, 1999; previously amended effective April 1, 1962, July 1, 1964, July 1, 1969, July 1, 1971, january 1, 1976, January 1, 1993, July 1, 1993, and January 1, 1994.)

(d) [Line spacing and numbering]

(1) Only one side of the paper ~~shall~~ may be used, and the lines on each page ~~shall~~ must be one and one-half spaced or double spaced and numbered consecutively.

(2) Descriptions of real property may be single spaced and footnotes, quotations, and printed forms of corporate surety bonds and undertakings

may be single spaced and have unnumbered lines if they comply generally with the space requirements of ~~subdivision~~ (f).

(3) The left margin ~~shall~~ must be at least one inch from the left edge of the paper and the right margin at least ~~one-half~~ 1/2 inch from the right edge of the paper.

(4) Line numbers ~~shall~~ must be placed at the left margin and separated from the text of the paper by a vertical column of space at least ~~one-fifth~~ 1/5 inch wide or a single or double vertical line. ~~The~~ Each line number ~~either shall~~ must be ~~placed on the same line as~~ aligned with a line of type or the line numbers ~~shall~~ must be evenly spaced vertically on the page. Line numbers ~~shall~~ must be consecutively numbered beginning with the number 1 on each page. There ~~shall~~ must be at least three line numbers for every vertical inch on the page.

(Subd (d) amended effective January 1, 2003; previously amended and relettered effective July 1, 1993, and July 1, 1999; previously amended effective January 1, 1999.)

(e) [Page numbering and hole punching]

(1) Each page ~~shall~~ must be numbered consecutively at the bottom.

(2) Each paper ~~shall~~ must consist entirely of original pages without riders, and ~~shall~~ must be firmly bound together at the top.

(3) Exhibits may be fastened to pages of the specified size and, when prepared by a machine copying process, ~~shall~~ must be equal to typewritten material in legibility and permanency of image.

(4) Each paper presented for filing ~~shall~~ must contain two pre-punched normal-sized holes, centered 2 ½ inches apart, and 5/8 inch from the top of the paper.

(Subd (e) amended effective January 1, 2003; previously amended and relettered effective July 1, 1993, and July 1, 1999; previously amended effective January 1, 1994.)

(f) [Format of first page] The first page of each paper ~~shall~~ must be in the following form:

(1) In the space commencing ~~one~~1 inch from the top of the page with line 1, to the left of the center of the page, the name, office address or, if none, residence address, telephone number, fax number and e-mail address (if

provided), and State Bar membership number of the attorney for the party in whose behalf the paper is presented, or of the party if he or she is appearing in person; but the name, office address, telephone number, and State Bar membership number of the attorney printed on the page ~~shall be~~ is sufficient. Inclusion of a fax number or e-mail address on any document is optional, and its inclusion ~~shall not be considered~~ does not constitute consent to service by fax or e-mail unless otherwise provided by law.

(2) ~~The~~ In the first ~~two~~2 inches of space between lines 1 and 7 to the right of the center of the page, ~~shall be left~~ a blank space for the use of the clerk.

(3) On line 8, at or below ~~three and one third~~ 3 1/3 inches from the top of the paper ~~line 8~~, the title of the court.

(4) Below the title of the court, in the space to the left of the center of the page, the title of the case. In the title of the case on each initial complaint or cross-complaint, the name of each party must commence on a separate line beginning at the left margin of the page. On any subsequent pleading or paper, it is sufficient in the title of the case to (1) state the name of the first party on each side, with appropriate indication of other parties, and (2) state that a cross-action or cross-actions are involved, if applicable.

(5) To the right of and opposite the title, the number of the case.

(6) ~~Immediately~~ Below the number of the case, the nature of the paper~~,~~ and, on all complaints and petitions, the character of the action or proceeding. In a case having multiple parties, any answer, response, or opposition ~~shall~~ must specifically identify the complaining, propounding, or moving party and the complaint, motion, or other matter being answered or opposed.

(7) Below the nature of the paper or the character of the action or proceeding, the name of the judge and department, if any, to which the case is assigned.

~~(7)~~(8) Below the ~~number of the case~~ nature of the paper or the character of the action or proceeding, the word "Referee:" followed by the name of the referee, on any paper filed in a case pending before a referee appointed pursuant to Code of Civil Procedure section 638 or 639.

~~(8)~~(9) On the complaint, petition, or application filed in a limited civil case, ~~immediately~~ below the character of the action or proceeding, the amount

demanded in the complaint, petition, or application, stated as follows: "Amount demanded exceeds $10,000" or "Amount demanded does not exceed $10,000," as required by Government Code section 72055.

~~(9)~~(10) In the caption of every pleading and every other paper filed ~~in a unified court~~ in a limited civil case, the words: "Limited Civil Case," as required by Code of Civil Procedure section 422.30(b).

~~(10)~~(11) If a case is reclassified by an amended complaint, cross-complaint, amended cross-complaint, or other pleading under Code of Civil Procedure section 403.020 or 403.030, the caption must indicate that the action or proceeding is reclassified by this pleading. If a case is reclassified by stipulation under Code of Civil Procedure section 403.050, the title of the stipulation must state that the action or proceeding is reclassified by this stipulation. The caption or title must state that the case is a limited civil case reclassified as an unlimited civil case, or an unlimited civil case reclassified as a limited civil case, or other words to that effect.

(Subd (f) amended effective January 1, 2003; adopted as subd (c) effective January 1, 1949; previously amended and relettered effective July 1, 1993, and July 1, 1999; previously amended effective january 1, 1978, July 1, 2000, January 1, 2001, and January 1, 2002.)

(g) [Footer] Except for exhibits, each paper filed with the court ~~shall~~ must bear a footer in the bottom margin of each page, placed below the page number and divided from the rest of the document page by a printed line. The footer ~~shall~~ must contain the title of the paper (examples: "Complaint," "XYZ Corp.'s Motion for Summary Judgment") or some clear and concise abbreviation. The title of the paper ~~shall~~ must be in at least 10-point type.

(Subd (g) amended effective January 1, 2003; adopted effective January 1, 1999 as subd (f); previously relettered effective July 1, 1999; previously amended effective July 1, 2000.)

(h) [Changes on face of paper—conformance of copies] Additions, deletions, or interlineations ~~shall~~ must be initialed by the clerk or judge at the time of filing. All copies served ~~shall~~ must conform to the original filed, including the numbering of lines, pagination, additions, deletions, and interlineations.

(Subd (h) amended effective January 1, 2003; adopted effective January 1, 1949 as subd (d); previously amended and relettered effective July 1, 1999; previously relettered as subd (g) effective January 1, 1999, and as subd (f) effective July 1, 1993.)

(i) [Several causes of action, defenses, etc.] Each separately stated cause of action, count, or defense ~~shall~~ must be separately numbered.

(Subd (i) amended effective January 1, 2003; adopted effective January 1, 1949 as subd (e); previously amended and relettered effective July 1, 1999; previously relettered as subd (h) effective January 1, 1999, and as subd (g) effective July 1, 1993; previously amended effective January 1, 1973.)

(j) [Acceptance for filing] The clerk of the court ~~shall~~ must not accept for filing or file any papers ~~which~~ that do not comply with this rule, ~~but~~ except:

(1) The clerk must not reject a paper for filing solely on the ground that it is handwritten or handprinted or that the handwriting or handprinting is in a color other than blue-black or black.

(2) For good cause shown, the court may permit the filing of papers ~~which~~ that do not comply with this rule.

(Subd (j) amended effective January 1, 2003; previously relettered effective January 1, 1999; previously relettered as subd (h) effective January 1, 1966, July 1, 1974, and January 1, 1978; previously amended and relettered as subd (g) effective january 1, 1984; previously relettered as subd (i) effective July 1, 1993.)

~~**(k) [Local forms]**~~

~~(1) Each form adopted by a court shall be on a paper no more than 8 ½ by 11 inches and no less than 8 ½ by 5 inches.~~

~~(2) The court shall make copies of its forms available in the clerk's office. A court may, as an alternative, make its forms available in a booklet from which photocopies of the forms may be made. The court may charge for either copies of forms or the booklet of forms.~~

~~(3) The court shall assign a unique designator consisting of numbers or letters or both to each form. The designator shall be placed on the form in the same manner as the Judicial Council designator appears on a Judicial Council form.~~

~~(4) The effective date of each form shall be placed on the form in the same manner as the effective date on a Judicial Council form.~~

~~(5) Each court shall make available a current list of forms adopted by the court that includes for each form its name, number, and effective date. There shall be two versions of the list, one organized by form number and one organized by form name. The court shall modify its lists whenever it modifies, adopts or repeals any form.~~

~~(6) Each form shall be designed so that no typing is required on it within one inch of the top and one-half inch of the bottom of each form.~~

~~(7) All forms and copies of forms shall be reproduced on recycled paper.~~

(Subd (k) repealed effective January 1, 2003.)

~~**(l) [Multiple-page forms]** If a legal form is longer than one page, the form may be filed on sheets printed on only one side even if the original form has two printed sides to a sheet. If a form is filed on a sheet printed on two sides, the reverse shall be rotated 180 degrees (printed head to foot).~~

(Subd (l) repealed effective January 1, 2003.)

~~**(m)**~~**(k)** Except as otherwise provided, this rule does not apply to Judicial Council forms, local court forms, or forms for juvenile dependency proceedings produced by the California State Department of Social Services Child Welfare Systems Case Management System.

(Subd (k) *amended and relettered effective January 1, 2003; adopted as subd (m) effective January 1, 1998; repealed as [Use of recycled paper for records on appeal from municipal courts in civil cases and for briefs filed in the appellate departments] effective July 1, 1999; previously relettered as subd (n) effective January 1, 1999, and as subd (m) effective July 1, 1999.)*

Rule 201 amended effective January 1, 2003; adopted effective January 1, 1949; previously amended effective April 1, 1962, May 1, 1962, July 1, 1964, January 1, 1966, July 1, 1969, July 1, 1971, January 1, 1973, July 1, 1974, January 1, 1976, January 1, 1978, May 6, 1978, January 1, 1984, April 1, 1990, July 1, 1990, January 1, 1992, July 1, 1992, January 1, 1993, July 1, 1993, January 1, 1994, January 1, 1998, January 1, 1999, July 1, 1999, July 1, 2000, January 1, 2001, and January 1, 2002.

Part 3. Judicial Council and Local Court Forms

Title Two, Pretial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 1, General Provisions—Part 3, Judicial Council and Local Court Forms; ~~amended effective July 1, 2002;~~ adopted effective January 1, 2003. ~~1949; rule 200 included January 1, 2001~~.

Rule ~~982~~ 201.1. Judicial Council ~~legal~~ forms

(a) Judicial Council forms are either mandatory or optional.

(Subd (a) adopted effective January 1, 2003.)

~~(a)~~(b) [Mandatory forms]

(1) ~~Legal~~ Forms adopted by the Judicial Council for mandatory use are forms prescribed under Government Code section 68511. ~~and shall,~~ Wherever applicable, they must be used by all parties and must be accepted for filing by all the courts.

(2) Each mandatory Judicial Council form ~~bears the word "adopted" in the lower left corner of the first page and~~ is identified as mandatory by an asterisk (*) on the list of Judicial Council forms in division III of the Appendix to the California Rules of Court. ~~(~~The list is ~~also~~ available on the California Courts Web site at *www.courtinfo.ca.gov/forms*.~~)~~

(3) Forms adopted by the Judicial Council for mandatory use ~~effective on or after July 1, 1999, will~~ bear the words "Form Adopted for Mandatory Use" or "Mandatory Form" in the lower left corner of the first page.

(4) Publishers and courts reprinting a mandatory Judicial Council form in effect before July 1, 1999, ~~shall~~ must add the words "Mandatory Form" to the bottom of the first page.

(5) The court may not alter a mandatory Judicial Council form and require the altered form's use in place of the Judicial Council form.

(6) The court may not require that any mandatory Judicial Council form be submitted on any color paper other than white.

(Subd (b)amended and relettered effective January 1, 2003; adopted as subd (a) effective November 10, 1969; previously amended effective July 1, 1990.)

~~(b)~~(c) [Optional forms]

(1) ~~Legal~~ Forms approved by the Judicial Council for optional use ~~shall~~, wherever applicable, may be used by parties and must be accepted for filing by all the courts.

~~(2) The court may not alter an optional Judicial Council form and require the altered form's use in place of the Judicial Council form.~~

~~(3)~~(2) Each optional Judicial Council form ~~bears the word "approved" in the lower left corner of the first page and~~ appears, without an asterisk (*), on

the list of Judicial Council forms in division III of the Appendix to the California Rules of Court ~~without an asterisk (*)~~. ~~(~~The list is ~~also~~ available on the California Courts Web site at *www.courtinfo.ca.gov/forms*.~~)~~

~~(4)~~(3) Forms approved by the Judicial Council for optional use ~~effective on or after July 1, 1999, will~~ bear the words "Form Approved for Optional Use" or "Optional Form" in the lower left corner of the first page.

~~(5)~~(4) Publishers and courts reprinting an optional Judicial Council form in effect before July 1, 1999, ~~shall~~ must add the words "Optional Form" to the bottom of the first page.

(5) The court may not alter an optional Judicial Council form and require the altered form's use in place of the Judicial Council form.

(6) The court may not require that any optional Judicial Council form be submitted on any color paper other than white.

(Subd (c) amendedand relettered effective January 1, 2003; adopted as subd (b) effective July 1, 1976; previously amended effective July 1, 1990.)

~~(c)~~(d) **[Statutory references on the forms]** The references to statutes and rules in the lower right corner of Judicial Council forms are advisory only. The presence or absence of a particular reference ~~shall~~ is not ~~constituted~~ a ground~~s~~ for rejecting a form otherwise applicable in the action or proceeding for the purpose presented.

(Subd (d) amended and relettered effective January 1, 2003; adopted as subd (c) effective July 1, 1990.)

(e) **[Proofs of service]** Proofs of service are included on some Judicial Council forms solely for the convenience of the parties. A party may use an included proof of service or any other proper proof of service.

(Subd (e) adopted effective January 1, 2003.)

~~(d)~~(f) **[Matter added by the courts or others]** A court ~~shall~~ must not reject for filing a Judicial Council form for any of the following reasons:

(1) The form lacks the preprinted title and address of the court or the clerk's preprinted name;

(2) The form is printed by a publisher or another court;

(3) The preprinted title and address of another court or its clerk's name is legibly modified;

(4) The form lacks the name of the clerk;

(5) The form lacks the court's local form number;

(6) The form lacks any other material added by a court, unless the material is required by the Judicial Council;

(7) The form is imprinted with the name or symbol of the publisher, unless the name or symbol replaces or obscures any material on the printed form; or

(8) The ~~printed~~ form is legibly and obviously modified to correct a code section number or ~~other provision of law that must be modified~~ to comply with the law under which the form is filed.

(Subd (f) amended and relettered effective January 1, 2003; adopted as subd (c) effective July 1, 1976; previously amended and relettered as subd (d) effective July 1, 1999.)

~~(e)~~(g) **[Multiple-page forms]** If a Judicial Council form is longer than one page, the form may be filed on sheets printed on only one side even if the original form has two printed sides to a sheet. If a form is filed on a sheet printed on two sides, the reverse side ~~shall~~ must be rotated 180 degrees (printed head to foot).

(Subd (g) amended and relettered effective January 1, 2003; adopted as subd (d) effective July 1, 1988; previously amended and relettered effective July 1, 1999.)

~~(f)~~(h) **[Legibility]** Any Judicial Council form filed ~~shall~~ must be a true copy of the ~~court's~~ original form and ~~shall~~ must be as legible as a printed form.

(Subd (h) amended and relettered effective January 1, 2003; adopted as subd (d) effective July 1, 1988; previously amended and relettered effective July 1, 1999.)

~~(g)~~(i) **[Electronically produced forms]** A party or attorney may file a duplicate of a Judicial Council form produced by a computer and a ~~laser~~ printer or similar device with a resolution of at least 300 dots per inch. The device ~~shall~~ must print, in a contrasting typestyle equivalent to that produced by a typewriter, text that otherwise would have been entered by a typewriter or word processor.

(Subd (i) amended and relettered effective January 1, 2003; adopted as subd (e) effective July 1, 1988; previously amended and relettered effective July 1, 1999.)

~~(h)~~(j) **[True copy certified]** A party or attorney who files a Judicial Council form certifies by filing the form that it is a true and correct copy of the form.

(Subd (j) amended and relettered effective January 1, 2003; adopted as subd (f) effective July 1, 1988; previosuly amended and relettered effective July 1, 1999.)

(k) Use of recycled paper] All forms and copies of forms filed with the court must use recycled paper as defined in rule 201(a)(2).

(Subd (k) adopted effective January 1, 2003.)

(l) [Hole punching] All forms presented for filing must be firmly bound at the top and must contain two pre-punched normal-sized holes, centered 2½ inches apart and 5/8 inch from the top of the form.

(Subd (l) adopted effective January 1, 2003.)

Rule 201.1 amended and renumbered effective January 1, 2003; adopted as rule 982 effective November 10, 1969; previously amended effective November 23, 1969, July 1, 1970, November 23, 1970, January 1, 1971, January 1, 1972, March 4, 1972, July 1, 1972, March 7, 1973, July 1, 1975, January 1, 1975, July 1, 1976, January 1, 1977, July 1, 1977, January 1, 1978, October 1, 1978, January 1, 1979, July 1, 1980, January 1, 1981, July 1, 1983, July 1, 1988, January 1, 1997, and July 1, 1999.

Rule ~~982.1~~ 201.2. Judicial Council pleading forms

(a) [Pleading forms] The forms listed under the "Pleading" heading on the list of Judicial Council forms in division III of the Appendix to the California Rules of Court (forms 982.1(1)–982.1(95S)) are approved by the Judicial Council as required by Code of Civil Procedure section 425.12.

(Subd (a) amended effective July 1, 1999; adopted effective January 1, 1982.)

(b) [Cause of action forms] Any approved cause of action form may be attached to any approved form of complaint or cross-complaint.

(Subd (b) adopted effective January 1, 1982.)

(c) [Other causes of action] A cause of action for which no form has been approved may be prepared in the format prescribed by rule 201~~(b)~~ and attached to any approved form of complaint or cross-complaint. Each paragraph within a cause of action ~~shall~~ must be numbered consecutively beginning with one.

Each paragraph number ~~shall~~ must be preceded with one or more identifying letters derived from the title of the cause of action.

(Subd (c) amended effective January 1, 2003; adopted effective January 1, 1982.)

Rule 201.2 amended and renumbered effective January 1, 2003; adopted as rule 982.1 effective January 1, 1982; previously amended effective July 1, 1995, July 1, 1996, January 1, 1997, and July 1, 1999.

Rule 201.3. Local court forms

Local forms must comply with the following:

(1) Each form must be on paper measuring no more than 8 ½ by 11 inches and no less than 8 ½ by 5 inches.

(2) The court must make copies of its forms available in the clerk's office. A court may, as an alternative, make its forms available in a booklet from which photocopies of the forms may be made. The court may charge for either copies of forms or the booklet of forms.

(3) The court must assign to each form a unique designator consisting of numbers or letters, or both. The designator must be positioned on the form in the same manner as the designator on a Judicial Council form.

(4) The effective date of each form must be placed on the form in the same manner as the effective date on a Judicial Council form, and each form must state whether it is a "Mandatory Form" or an "Optional Form" in the lower left corner of the first page.

(5) Each court must make available a current list of forms adopted or approved by that court. The list must include, for each form, its name, number, effective date, and whether the form is mandatory or optional. There must be two versions of the list, one organized by form number and one organized by form name. The court must modify its lists whenever it adopts, revises, or repeals any form.

(6) Each form must be designed so that no typing is required on it within 1 inch of the top or within ½ inch of the bottom.

(7) All forms and copies of forms made available by, or presented for filing to, the court must be reproduced on recycled paper as defined in rule 201(a)(2).

(8) All forms presented for filing must be firmly bound at the top and must contain two pre-punched, normal-sized holes centered 2½ inches apart and 5/8 inch from the top of the form.

(9) If a form is longer than one page, the form may be filed on sheets printed on only one side even if the original form has two printed sides to a sheet. If a form is filed on a sheet printed on two sides, the reverse side must be rotated 180 degrees (printed head to foot).

Rule 201.3 adopted effective January 1, 2003.

Rule 201.4. Handwritten or handprinted forms

The clerk must not reject for filing or refuse to file any Judicial Council or local court form solely on the ground that it is completed in handwritten or handprinted characters or that the handwriting or handprinting is in a color other than blue-black or black.

Rule 201.4 adopted effective January 1, 2003.

Part 4. Filing and Service

Title Two, Pretrial and Trial Rules—Division I, Rules for the Trial Courts—Chapter 1, General Provisions—Part 4, Filing and Service; ~~amended effective July 1, 2002;~~ adopted effective January 1, 2003. ~~1949; rule 200 included January 1, 2001.~~

Rule 201.5. Limitations on the filing of papers

(a) [Papers not to be filed] The following papers, whether offered separately or as attachments to other documents, may not be filed unless they are offered as relevant to the determination of an issue in a law and motion proceeding or other hearing or are ordered filed for good cause:

(1) Subpoena;

(2) Subpoena duces tecum;

(3) Deposition notice, and response;

(4) Notice to consumer or employee, and objection;

(5) Notice of intention to record testimony by audio or video tape;

(6) Notice of intention to take an oral deposition by telephone, videoconference, or other remote electronic means;

~~(6)~~(7) Agreement to set or extend time for deposition, agreement to extend time for response to discovery requests, and notice of these agreements;

~~(7) Declaration for additional discovery;~~

(8) Interrogatories, and responses or objections to interrogatories;

(9) Demand for production or inspection of documents, things, and places, and responses or objections to demand;

(10) Request for admissions, and responses or objections to request;

~~(8)~~(11) Agreement for physical and mental examinations;

~~(9)~~(12) Demand for delivery of medical reports, and response;

(13) Demand for exchange of expert witnesses;

(14) Demand for production of discoverable reports and writings of expert witnesses;

(15) List of expert witnesses whose opinion a party intends to offer in evidence at trial and declaration;

(16) Statement that a party does not presently intend to offer the testimony of any expert witness;

(17) Declaration for additional discovery;

~~(10)~~(18) Stipulation to enlarge the scope of number of discovery requests from that specified by statute, and notice of the stipulation;

~~(11)~~(19) Demand for bill of particulars or an accounting, and response;

~~(12)~~(20) Request for statement of damages, and response, unless it is accompanied by a request to enter default and is the notice of special and general damages;

~~(13) Demand for jury trial, unless it is submitted pursuant to Code of Civil Procedure sections 631(4), 631.01(a)(4), or 631.01(b), or is included in the at-issue memorandum;~~

~~(14)~~(21) Notice of deposit of jury fees;

~~(15)~~(22) Notice to produce party, agent, or tangible things before a court, and response; and

~~(16)~~(23) Offer to compromise, unless accompanied by an original proof of acceptance and a written judgment for the court's signature and entry of judgment.

(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 2001.)

(b) [Retaining originals of papers not filed] Unless the paper served is a response, the party who serves a paper listed in ~~subdivision~~ (a) ~~shall~~ must retain the original with the original proof of service affixed. The original of a response ~~shall~~ must be served, and it ~~shall~~ must be retained by the person upon whom it is served. All original papers ~~shall~~ must be retained until six months after final disposition of the cause, unless the court on motion of any party and for good cause shown orders the original papers preserved for a longer period.

(Subd (b) amended effective January 1, 2003.)

(c) [Papers defined] As used in this rule, papers include printed forms furnished by the clerk, but do not include notices filed and served by the clerk.

Rule 201.5 amended effective January 1, 2003; adopted effective July 1, 1987; previously amended effective January 1, 2001.

Rule 202. Papers to be served on cross-defendant

A cross-complainant ~~shall~~ must serve a copy of the complaint or, if it has been amended, of the most recently amended complaint and any answers thereto on cross-defendants who have not previously appeared.

Rule 202 amended effective January 1, 2003; adopted effective January 1, 1985.

Rule 202.5. Service of papers on the clerk when a party's address is unknown

(a) [Service of papers] When service is made under Code of Civil Procedure section 1011(b) and a party's residence address is unknown, the notice or papers delivered to the clerk, or to the judge, ~~,~~ if there is no clerk, ~~shall~~ must be enclosed in an envelope addressed to the party in care of the clerk or the judge.

(Subd (a) amended and lettered effective January 1, 2003.)

(b) [Information on the envelope] The back of the envelope delivered under (a) ~~shall~~ must bear the following information:

"Service is being made under Code of Civil Procedure section 1011(b) on a party whose residence address is unknown."

[Name of party whose residence address is unknown]

[Case name and number]

(Subd (b) amendedand lettered effective January 1, 2003.)

Rule 202.5 amended effective January 1, 2003; adopted effective July 1, 1997.

Rule ~~387~~ 202.7. List of parties

If more than two parties have appeared in a case and are represented by different counsel, the plaintiff named first in the complaint ~~shall~~ must (1) maintain a current list of the parties and the address for service of notice on each party, and (2) furnish a copy of the list on request to any party or the court. Each party ~~shall~~ must (1) furnish the first-named plaintiff with its current address for service of notice when it first appears in the action~~,~~; (2) furnish the first-named plaintiff with any changes in its address for service of notice~~,~~; and (3) if it serves an order, notice, or pleading on a party who has not yet appeared in the action, serve a copy of the list at the same time as the order, notice, or pleading is served.

Rule 202.7 amended and renumbered effective January 1, 2003; adopted as rule 387 effective July 1, 1984.

~~**Rule 222.1. Notice of waiver of jury trial**~~

~~**(a) [Notice of waiver in unlimited civil cases]** Notice of waiver of jury trial in unlimited civil cases is governed by Code of Civil Procedure section 631(b).~~

~~**(b) [Notice of waiver in limited civil cases]** In limited civil cases, if a jury is demanded by either party and the party, prior to trial, by announcement or by operation of law, waives a trial by jury, all adverse parties shall have five days following the receipt of notice of the waiver to file and serve a demand for a trial by jury to deposit any advance jury fees that are then due.~~

Rule 222.1 repealed effective January 1, 2003; adopted effective January 1, 1001. The repealed rule related to notice of waiver of jury trial.

Rule ~~203~~ 236.5. Notice of intention to move for new trial~~—points and authorities~~ time for service and filing of memorandum

Within 10 days after filing notice of intention to move for a new trial in a civil case, the moving party ~~shall~~ must serve and file a memorandum ~~of points and authorities relied upon~~ in support of the motion, and within 10 days thereafter ~~the~~ any adverse party may serve and file a memorandum in reply. If the moving party fails to serve and file the prescribed memorandum, the court may deny the motion without a hearing on the merits.

Rule 236.5 amended and renumbered effective January 1, 2003; adopted as rule 203 effective January 1, 1949; previously amended effective April 1, 1962, January 1, 1971, January 1, 1984, and January 1, 1987.

Rule ~~203.5~~ 243.9. Electronic recordings offered in evidence—transcripts

(a) [Transcript of electronic recording] Unless otherwise ordered by the trial judge, a party offering into evidence an electronic sound or sound-and-video recording ~~shall~~ must tender to the court and to opposing parties a typewritten transcript of the electronic recording. The transcript ~~shall~~ must be marked for identification. A duplicate of the transcript, as defined in Evidence Code section 260, ~~shall~~ must be filed by the clerk and ~~shall~~ must be part of the clerk's transcript in the event of an appeal. Any other recording transcript provided to the jury ~~shall~~ must also be marked for identification, and a duplicate ~~shall~~ must be filed by the clerk and made part of the clerk's transcript in the event of an appeal.

(Subd (a) amended and lettered effective January 1, 2003.)

(b) [Transcription by court reporter not required] Unless otherwise ordered by the trial judge, the court reporter need not take down or transcribe an electronic recording that is admitted into evidence.

(Subd (b) amended and lettered effective January 1, 2003.)

Rule 243.9 amended and renumbered effective January 1, 2003; adopted as rule 203.5 effective July 1, 1988; previously amended effective January 1, 1997.

Rule ~~249~~ 299. ~~Miscellaneous~~ Judicial robes

~~**(a) [Holidays]** If any day on which an act required to be done by these rules falls on a legal holiday, the act may be performed on the next succeeding judicial day.~~

(Subd (a) repealed effective January 1, 2003.)

~~**(b) [Extensions of time]** The time within which any act is required to be done by a party under these rules may be extended by the court.~~

(Subd (b) repealed effective January 1, 2003.)

~~**(c) [Definitions]** In these rules, unless the context or subject matter otherwise requires:~~

~~(1) The past, present and future tense shall each include the others; the masculine, feminine and neuter gender shall include the others; and the singular and plural number shall each include the other.~~

~~(2) The word "shall" is mandatory and the word "may" is permissive.~~

~~(3) The terms "written," "writing," "typewritten" and "typewriting" include other methods equivalent in legibility to typewriting.~~

~~(4) The words "presiding judge" include the acting presiding judge.~~

~~(5) The terms "party," "applicant," "petitioner" or any other designation of a party include such party's attorney of record. Whenever under these rules a notice or other paper is required to be given or served on a party, such notice or service shall be made on his attorney of record if he has one.~~

~~(6) The words "serve and file" means that a paper filed in a court is to be accompanied by proof of prior service, in a manner permitted by law, of a copy of the paper on counsel for each adverse party who is represented by separate counsel and on each party appearing in person.~~

~~(7) The word "case" includes action and proceeding.~~

~~(8) Rule and subdivision headings do not in any manner affect the scope, meaning or intent of the provisions of these rules.~~

(Subd (c) repealed effective January 1, 2003.)

~~(d)~~ ~~[Robes]~~ The judicial robe required by section 68110 of the Government Code ~~shall~~ must be black, ~~shall~~ must extend in front and back from the collar and shoulders to below the knees, and ~~shall~~ must have sleeves to the wrists. It ~~shall~~ must conform to the style customarily worn in courts in the United States.

(Subd (d) amended as an unlettered subdivision effective January 1, 2003; adopted as subd (e) effective September 24, 1959; relettered as subd (d) effective July 1, 1963.)

Rule 299 amended and renumbered effective January 1, 2003; adopted as rule 249 effective January 1, 1949; previously amended effective September 24, 1959 and July 1, 1963.

Rule 233. Family law rules

The rules contained in Division 1 (commencing with rule ~~1201~~ 5.10) of Title ~~Four~~ Five of these rules shall govern all proceedings under the Family Law Act as defined in rule ~~1201~~ 5.10.

Rule 233 amended effective January 1, 2003; adopted effective January 1, 1970.

Rule 229. Proposed jury instructions

(a) [Citation of authorities] Each proposed jury instruction presented by a party, except instructions requested by number reference to forms previously approved by the court, ~~shall~~ must contain at the bottom ~~thereof~~ a citation of authorities, if any, supporting the statement of law ~~therein~~ in the instruction.

(Subd (a) amended effective January 1, 2003.)

(b) [Form of instruction] Except as to such approved forms, each proposed instruction ~~shall~~ must be in the form specified by rule 201~~(b)~~, indicating the party upon whose behalf it is requested. Instructions ~~shall~~ must be numbered consecutively, but not firmly bound together.

(Subd (b) amended effective January 1, 2003; previously amended effective July 1, 1988.)

(c) [Refusing proposed instructions] Proposed instructions, except those required by law, which do not comply with this rule or with law may be refused, in which event the judge ~~shall~~ must endorse ~~thereon~~ on the proposed instruction the reason for its refusal.

(Subd (c) amended effective January 1, 2003; previously amended effective April 1, 1962, and July 1, 1988.)

Rule 229 amended effective January 1, 2003; adopted effective January 1, 1949; previously amended effective April 1, 1962, and July 1, 1988.

Rule 298. Telephone appearance

(a) [Applica~~bility~~tion] This rule applies ~~in superior court and only~~ to all ~~civil actions,~~ general civil cases as defined in rule 200.1(2) and to ~~special proceedings of a civil nature such as~~ unlawful detainer~~,~~ and probate proceedings. ~~The rule also applies to civil cases in municipal courts that permit telephone appearances. The rule does not apply to causes arising under the Welfare and Institutions Code, the Family Code, or Code of Civil Procedure sections 527.6, 527.7, and 527.8.~~

(Subd (a) amended effective January 1, 2003; previously repealed and adopted effective July 1, 1998; previously amended effective Janury 1, 1999, and January 1, 2001.)

(b) [General provision] Except as provided in ~~subdivision~~ (c), ~~counsel~~ a party may ~~shall have the option of~~ appear~~ing~~ by telephone in any conference or ~~law and motion or probate~~ hearing~~,~~ at which witnesses are not expected to be called to testify.

(Subd (b) amended effective January 1, 2003; previously repealed and adopted effective July 1, 1998; previously amended effective July 1, 1999.)

(c) [Exceptions] A personal appearance is required for the following:

(1) Settlement conferences, unless the court orders otherwise;

(2) Case management conferences, unless the court ~~has provided by local rule or written local policy for~~ permits telephone appearances ~~for~~ at those conferences; and

(3) Any hearing or conference for which the court, in its discretion, determines that a personal appearance would materially assist in a

determination of the proceeding or in resolution of the case. The court ~~shall~~ must make this determination on a case-by-case basis.

(Subd (c) amended effective January 1, 2003; adopted effective July 1, 1998 (former subd (c) relettered as subd (g); previously amended effective July 1, 2002.)

(d) [Notice by ~~counsel~~ party]

(1) ~~Counsel~~ A party choosing to appear by telephone at a hearing under this rule ~~shall~~ must either

(A) place the phrase "Telephone Appearance" below the title of the moving or opposing papers~~. If counsel is not required to file moving or opposing papers for the appearance and chooses to appear by telephone, counsel shall~~ or

(B) at least five court days before the appearance, ~~file and serve a "Notice of Intent to Appear by Telephone."~~ notify the court and all other parties of the party's intent to appear by telephone. If the notice is oral, it must be given either in person or by telephone. If the notice is in writing, it must be given by filing a "Notice of Intent to Appear by Telephone" with the court at least five court days before the hearing and by serving the notice at the same time on all other parties by personal delivery, facsimile transmission, express mail, or other means reasonably calculated to ensure delivery to the parties no later than the close of the next business day.

(2) If a party that has given notice that it intends to appear by telephone subsequently chooses to appear in person, the party must so notify the court and all other parties that have appeared in the action, by telephone, at least two court days before the hearing.

~~If counsel subsequently chooses to appear in person, counsel shall, at least two court days before the hearing, notify by telephone the court, all other counsel, and all parties appearing in propria persona.~~

(Subd (d) amended effective January 1, 2003; adopted effective July 1, 1998; previously amended effective January 1, 1999, and July 1, 1999.)

(e) [Notice by court] ~~If,~~ After ~~counsel~~ a party has requested a telephone appearance under ~~subdivision~~ (d), if the court requires the personal appearance of ~~counsel,~~ the party, the court ~~shall~~ must~~, at least one court day before the hearing,~~ notify all parties by telephone ~~all counsel and all parties~~ at least one

court day before the hearing. ~~appearing in propria persona.~~ In courts using a telephonic tentative ruling system for law and motion matters, court notification that ~~counsel~~ parties must appear in person may be given as part of the court's tentative ruling on a specific law and motion matter if that notification is given one court day before the hearing.

(Subd (e) amended effective January 1, 2003; adopted effective July 1, 1998; previously amended effective January 1, 1999.)

(f) [Private vendor; charges for service] A court may provide teleconferencing for court appearances by entering into a contract with a private vendor. The contract may provide that the vendor may charge ~~counsel~~ the party appearing by telephone a reasonable fee, specified in the contract, for its services.

(Subd (f) amended effective January 1, 2003; adopted effective July 1, 1998.)

(g) [Audibility and procedure] Each court ~~shall~~ must ensure that the statements of participants are audible to all other participants and that the statements made by a participant are identified as being made by that participant.

(Subd (g) amended effective January 1, 2003; adopted as subd (f) effective March 1, 1988; previously relettered as subd (c) effective January 1, 1989, and as subd (g) effective July 1, 1998.)

(h) [~~Recording~~ Reporting] All proceedings involving telephone appearances ~~shall~~ must be ~~recorded~~ reported to the same extent and in the same manner as if the participants had appeared in person.

(Subd (h) amended effective January 1, 2003; adopted effective July 1, 1998.)

(i) [Conference call provider] A court, by local rule, may designate a particular conference call provider that ~~shall~~ must be used for telephone appearances.

(Subd (i) amended effective January 1, 2003; adopted effective July 1, 1998; previously amended effective January 1, 1999.)

(j) [Information on telephone appearances] Each court ~~shall~~ must publish notice providing parties ~~and attorneys~~ with the particular information necessary for them to appear by telephone at conferences and hearings in that court under this rule.

(Subd (j) amended effective January 1, 2003.)

Rule 298 amended effective Janaury 1, 2003; adopted effective March 1, 1988; previously amended effective January 1, 1989, July 1, 1998, January 1, 1999, July 1, 1999, January 1, 2001; July 1, 2002.

Rule 313. Memorandum of points and authorities

(a)-(h) * * *

(i) [Requests for judicial notice] Any request for judicial notice shall be made in a separate document listing the specific items for which notice is requested and shall comply with rule 323~~(b)~~(c).

(Subd (i) amended effective January 1, 2003; adopted effective July 1, 1997 as subd (h); relettered effective July 1, 2000.)

(j) * * *

Rule 313 amended effective January 1, 2003; previously amended effective July 1, 1984, January 1, 1992, July 1, 1997, and July 1, 2000.

Rule 321. Time of hearing

(a) [General schedule] The clerk ~~shall~~ must post a general schedule showing the days and departments for holding each type of law and motion hearing.

(Subd (a) amended effective January 1, 2003.)

(b) [Duty to notify if matter not to be heard] The moving party ~~shall promptly~~ must immediately notify the court if a matter will not be heard on the scheduled date.

(Subd (b) amended effective January 1, 2003.)

(c) [Notice of nonappearance] A party may give notice that he or she will not appear at a law and motion hearing and submit the matter without an appearance unless the court orders otherwise. The court ~~shall~~ must rule on the motion as if the party had appeared.

(Subd (c) amended effective January 1, 2003; previously amended effective January 1, 1992.)

(d) [Action if no party appears] If ~~no~~ a party fails to appear~~s~~ at a law and motion hearing without having given notice under (c), the court may ~~drop the matter~~

~~from the~~ take the matter off calendar, to be reset only upon motion~~.~~, ~~In its discretion, the court~~ or may rule on ~~a law and motion~~ the matter ~~notwithstanding the failure of any party to appear at the hearing~~.

(Subd (d) amended effective January 1, 2003; previously amended and relettered effective January 1, 1992.)

Rule 321 amended effective January 1, 2003; adopted effective January 1, 1984; previously amended effective January 1, 1992.

Rule 323. Evidence at hearing

(a) [Restrictions on oral testimony] Evidence received at a law and motion hearing ~~shall~~ must be by declaration, ~~and~~ affidavit, ~~and~~ or ~~by~~ request for judicial notice without testimony or cross-examination, except as allowed in the court's discretion for good cause shown ~~or as permitted by local rule~~.

(Subd (a) amended effective January 1, 2003.)

(b) [Request to present oral testimony] A party seeking permission to introduce oral evidence, except for oral evidence in rebuttal to oral evidence presented by the other party, ~~shall~~ must file, no later than three court days before the hearing, a written statement ~~setting forth~~ stating the nature and extent of the evidence proposed to be introduced and a reasonable time estimate for the hearing. When the statement is filed less than five court days before the hearing, the filing party ~~shall~~ must serve a copy on the other parties in a manner to assure delivery to the other parties no later than two days before the hearing.

(Subd (b) amended and relettered effective January 1, 2003; adopted as part of subd (a) effective January 1, 1984.)

~~(b)~~**(c) [Judicial notice]** A party requesting judicial notice of material under Evidence Code sections 452 or 453 ~~shall~~ must provide the court and each party with a copy of the material. If the material is part of a file in the court in which the matter is being heard, the party ~~shall~~ must (1) specify in writing the part of the court file sought to be judicially noticed; and (2) make arrangements with the clerk to have the file in the courtroom at the time of the hearing.

(Subd (c) amended and relettered effective January 1, 2003; adopted as subd (b) effective January 1, 1984.)

Rule 323 amended effective January 1, 2003; adopted effective January 1, 1984.

Rule 333. Oral depositions by telephone, videoconference, or other remote electronic means

(a) **[Taking depositions]** Any party may take an oral deposition by telephone, videoconference or other remote electronic means, provided:

(1) Notice is served with the notice of deposition or the subpoena;

(2) That party makes all arrangements for any other party to participate in the deposition in an equivalent manner. However, each party so appearing must pay all expenses incurred by it or properly allocated to it;

(3) Any party may be personally present at the deposition without giving prior notice.

(b) **[Appearing and participating in depositions]** Any party may appear and participate in an oral deposition by telephone, videoconference, or other remote electronic means, provided:

(1) Written notice of such appearance is served by personal delivery or facsimile at least three days before the deposition;

(2) The party so appearing makes all arrangements and pays all expenses incurred for the appearance.

(c) **[Party deponent's appearance]** A party deponent must appear at his or her deposition in person and be in the presence of the deposition officer.

(d) **[Non-party deponent's appearance]** A non-party deponent may appear at his or her deposition by telephone, videoconference, or other remote electronic means with court approval upon a finding of good cause and no prejudice to any party. The deponent must be sworn in the presence of the deposition officer or by any other means stipulated to by the parties or ordered by the court. Any party may be personally present at the deposition.

(e) **[Court orders**] Upon motion by any person, the court in a specific action may make such other orders as it deems appropriate.

Rule 333 adopted effective January 1, 2003.

~~Rule 374. Motions concerning trial setting conferences~~

~~A motion to continue, advance, reset, or specially set a trial setting conference shall be made before the presiding judge or the presiding judge's designee. The motion shall not be granted, except on notice, the filing of a declaration showing good cause, and the appearance by the moving party at the hearing on the motion.~~

Rule 374 repealed effective January 1, 2003; adopted effective January 1, 1985. The repealed rule related to motions concerning trial setting conferences.

~~Rule 377. Motion for jury trial~~

~~A party desiring a jury trial where the right thereto is not guaranteed by law shall, after issue is joined and before or at the time of filing the at issue memorandum, or within five days after service of the memorandum by any other party, give notice of motion that the whole issue or any specific issues of fact be tried by a jury. A copy of the issues of fact proposed for submission to the jury, in proper form, shall be served with the notice of motion. A party desiring to vacate the setting for a jury trial when the right thereto is not guaranteed by law and when the setting was made by the court without opportunity for the party to oppose it, shall, within five days after receiving notice from the clerk that the case has been set for jury trial, give notice of motion to vacate the setting and to reset the case for trial by the court without a jury. Motions shall be noticed for hearing on the earliest day permitted by Code of Civil Procedure section 1005, but if the law and motion calendar is not regularly heard on that day, the hearing shall be noticed for the next law and motion calendar. For good cause shown the court may order the hearing held on an earlier or later day on notice prescribed by the court.~~

Rule 377 repealed, effective January 1, 2003; adopted effective January 1, 1984. The repealed rule related to motions for jury trial.

Advisory Committee Comment (2003)

Rule 377 on motions for an advisory jury was repealed because it was obsolete and contained unduly burdensome procedures. The repeal of this rule is not intended to prevent a party from requesting an advisory jury. In an appropriate case, a party may request, and the court in its discretion may approve, the use of an advisory jury.

Rule 379. Ex parte applications and orders

(a) [Ex parte application] An ex parte application for an order ~~shall~~ must ~~not~~ be ~~made ex parte unless it appears~~ accompanied by an affidavit or a declaration showing:

(1) that, within ~~a reasonable time before the application~~ the applicable time period under (b), the ~~party~~ applicant informed the opposing party ~~or the opposing party's attorney~~ when and where the application would be made; or

(2) that the ~~party~~ applicant in good faith attempted to inform the opposing party ~~and the opposing party's attorney~~ but was unable to do so, specifying the efforts made to inform the~~m~~ opposing party; or

(3) that, for reasons specified, the ~~party~~ applicant should not be required to inform the opposing party ~~or the opposing party's attorney~~.

(Subd (a) amended effective January 1, 2003; previously amended effective July 1, 1997.)

(b) [Time of notice; time of notice in unlawful detainer proceedings] A party seeking an ex parte order ~~shall~~ must notify all parties no later than 10:00 a.m. the court day before the ex parte appearance, absent a showing of exceptional circumstances that justify a shorter time for notice. A party seeking an ex parte order in an unlawful detainer proceeding may provide shorter notice provided that the notice given is reasonable. ~~A declaration of notice, including the date, time, manner, and name of the party informed, the relief sought, any response, and whether opposition is expected, or a declaration stating reasons why notice should not be required, shall accompany every request for an ex parte order."~~

(Subd (b) amended effective January 1, 2003; adopted effective July 1, 1997; previously amended effective July 1, 1999, and July 1, 2000.)

(c) [**Filing and presentation of the ex parte application]** The clerk must not reject an ex parte application for filing and must promptly present the application to the appropriate judicial officer for consideration, notwithstanding the failure of an applicant to comply with the notification requirements in (b).

(Subd (c) adopted effective January 1, 2003.)

(d) [Contents of application]

(1) ~~A request~~ An ex parte application for an ~~ex parte~~ order ~~shall~~ must state the name, address, and telephone number of any attorney known to the applicant to be an attorney for any party or, if no such attorney is known, the name, address, and telephone number of such party if known to the applicant.

(2) ~~When~~ If an ex parte application for an ~~ex parte~~ order has been made to the court and has been refused in whole or in part, any subsequent application of the same character or for the same relief, although made upon an alleged different state of facts, ~~shall~~ must include a full disclosure of any ~~prior~~ previous applications and the court's actions.

(Subd (d) amended and relettered effective January 1, 2003; adopted as part of subd (b) effective January 1, 1984.)

~~(c)~~(e) [Contents of notice and declaration regarding notice]

(1) When notice of an ex parte application is given, the person giving notice ~~shall~~ must state with specificity the nature of the relief to be requested and the date, time, and place for the ~~presentment~~ presentation of the application, and ~~shall~~ must attempt to determine whether the opposing party ~~and/or counsel~~ will appear to oppose the application.

(2) Every ex parte application must be accompanied by a declaration regarding notice that states:

(A) the notice given, including the date, time, manner, and name of the party informed, the relief sought, any response, and whether opposition is expected; or

(B) why notice should not be required.

(3) If notice was provided later than 10:00 a.m. the court day before the ex parte appearance, the declaration regarding notice must explain:

(A) the exceptional circumstances that justify the shorter notice, or

(B) in unlawful detainer proceedings, why the notice given is reasonable.

(Subd (e) amended and relettered effective January 1, 2003; adopted as subd (c) effective July 1, 1997.)

~~(d)~~**(f)** **[Required documents]** An ex parte application~~s~~ ~~shall~~ must be in writing and include all of the following:

(1) An application containing the case caption and stating the relief requested;

(2) A declaration in support of the application making the factual showing required under (g)

(3) A competent declaration based on personal knowledge ~~as described in~~ of the notice given under ~~subdivision~~ ~~(b)~~(e);

(4) A memorandum of points and authorities; and

(5) A proposed order.

(Subd (f) amended and relettered effective January 1, 2003; adopted as subd (d) effective July 1, 1997.)

~~(e)~~**(g)** **[Affirmative factual showing required]** An applicant ~~shall~~ must make an affirmative factual showing in a declaration containing competent testimony based on personal knowledge of irreparable harm, immediate danger, or any other statutory basis for granting ~~ex parte~~ relief ex parte ~~rather than setting the matter for hearing on noticed motion~~.

(Subd (g) amended and relettered effective January 1, 2003; adopted as subd (e) effective July 1, 1997.)

~~(f)~~**(h)** **[Service of papers]** Parties appearing at the ex parte hearing ~~shall~~ must serve the ex parte application or any written opposition on all other appearing parties at the first reasonable opportunity. Absent exceptional circumstances, no hearing ~~shall~~ may be conducted unless such service has been made.

(Subd (h) amended and relettered effective January 1, 2003; adopted as subd (f) effective July 1, 1997.)

~~(g)~~**(i)** **[Personal appearance requirements]** An ex parte application will be considered without a personal appearance of the applicant ~~or applicant's counsel~~ in the following cases only:

(1) Applications to file a memorandum of points and authorities in excess of the applicable page limit;

(2) Setting of hearing dates on alternative writs and orders to show cause; and

(3) Stipulations by the parties or other orders of the court.

(Subd (i) amended and relettered effective January 1, 2003; adopted as subd (g) effective July 1, 1997.)

Rule 379 amended effective January 1, 2003; adopted effective January 1, 1984; previously amended effective July 1, 1997, July 1, 1999, and July 1, 2000

Rule 851. Procedures and eligibility criteria for attending traffic violator school

(a) [Purpose] The purpose of this rule is to establish uniform statewide procedures and criteria for eligibility to attend traffic violator school ~~as pretrial diversion under Vehicle Code sections 41501 and 42005~~.

(Subd (a) amended effective January 1, 2003; previously amended effective July 1, 2001.)

(b) [Authority of a court clerk to grant pretrial diversion]

(1) [Eligible offenses] Except as provided in subdivision ~~(c)~~ (2), a court clerk is authorized to grant a request to attend traffic violator school when a defendant with a valid driver's license ~~shall be eligible~~ requests to attend an 8-hour traffic violator school as pretrial diversion under Vehicle Code sections 41501(b) and 42005 for any infraction under divisions 11 and 12 (rules of the road and equipment violations) of the Vehicle Code if the violation is reportable to the Department of Motor Vehicles.

(Subd (b) amended effective January 1, 2003.)

~~(c)~~(2) **[Ineligible offenses]** A ~~defendant charged with~~ court clerk is not authorized to grant a request to attend traffic violator school for a misdemeanor or any of the following infractions ~~shall not be eligible to attend traffic violator school as pretrial diversion~~:

~~(1)~~(A) A violation that carries a negligent operator point count of more than one point under Vehicle Code section 12810 or more than one and one-half points under Vehicle Code section 12810.5(b)(2);

~~(2)~~(B) A violation that occurs within 18 months after the date of a previous violation and the defendant either attended or elected to attend a traffic violator school for the previous violation (Veh. Code, § 1808.7);

~~(3)~~(C) A violation of Vehicle Code section 22406.5 (tank vehicles);

~~(4)~~(D) A violation related to alcohol use or possession or drug use or possession;

~~(5)~~(E) A violation on which the defendant failed to appear under Vehicle Code section 40508(a) unless the failure-to-appear charge has been adjudicated and any fine imposed has been paid;

~~(6)~~(F) A violation on which the defendant has failed to appear under Penal Code section 1214.1 unless the civil monetary assessment has been paid~~.~~;

(G) A speeding violation in which the speed alleged is more than 25 miles over a speed limit as set forth in Chapter 7 (commencing with section 22348) of Division 11 of the Vehicle Code.

(Subd (c) amended and relettered as part of subd (b) effective January 1, 2003; previously amended effective January 1, 1998.)

~~(d)~~(c) [~~Court's~~Judicial discretionary ~~use~~]

(1) ~~Nothing in this rule shall prohibit the court~~ A judicial officer may in ~~its~~ his or her discretion ~~from using~~ order attendance at a traffic violator school in an individual case for diversion under Vehicle Code section 41501(a), 41501(b), or 42005; sentencing; or any other purpose~~s~~ permitted by law.

(2) If a violation occurs within 18 months of a previous violation, a judicial officer may order a continuance and dismissal in consideration for completion of a licensed program as specified in Vehicle Code section 41501(a). The program must consist of at least 12 hours of instruction as specified in section 41501(a). Pursuant to Vehicle Code section 1808.7, a dismissal for completion of the 12-hour program under this subdivision is not confidential.

(Subd (c) amended and relettered effective January 1, 2003; adopted as subd (d) effective January 1, 1997.)

Rule 851 amended effective January 1, 2003; adopted effective January 1, 1997; previously amended effective January 1, 1998 and July 1, 2001.

Rule 981. Local court rules—adopting, filing, distributing, and maintaining

(a) ***

(b) [Local inspection and copying of rules] Each court ~~shall~~ must make its local rules available for inspection and copying in every location of the court that generally accepts filing of papers. The court may impose a reasonable charge for copying the rules and may impose a reasonable page limit on copying. The rules ~~shall~~ must be accompanied by a notice indicating where a full set of the rules may be purchased or otherwise obtained.

(Subd (b) amended effective January 1, 2003; adopted as subd (c) effective July 1, 1991; relettered effective July 1, 1999.)

(c) [Publication of rules]

(1) Each court executive officer ~~shall~~ must be the official publisher of the court's local rules unless the court, by a majority vote of the judges, appoints another public agency or a private company. ~~All courts within a county that select a private company as the official publisher must select the same private company.~~

(2) The official publisher ~~shall~~ must have the local rules reproduced and make copies available for distribution to attorneys and litigants.

(3) The court ~~shall~~ must adopt rules in sufficient time to permit reproduction of the rules by the official publisher before the effective date of the changes.

(4) The official publisher may charge a reasonable fee.

(5) Within 30 days of selecting an official publisher or changing an official publisher, each court ~~shall~~ must notify the Judicial Council of the name, address, and telephone number of the official publisher. Within 30 days of a change in the cost of the rules, each court ~~shall~~ must notify the Judicial Council of the charge for the local rules. This information will be published annually by the Judicial Council.

(Subd (c) amended effective January 1, 2003; adopted as subd (d) effective July 1, 1991; amended and relettered effective July 1, 1999.)

(d) [Filing rules with Judicial Council]

(1) Thirty days before the effective date of January 1 or July 1, ~~E~~each court ~~shall~~ must file with the Judicial Council ~~80 collated copies~~ an electronic copy of rules and amendments to rules adopted by the court in a format authorized by the Judicial Council. ~~unless, for good cause shown, the Chair of the Judicial Council authorizes the filing of fewer copies~~. ~~The package mailed to the Judicial Council shall be labeled "Attn: Local Rules."~~

(2) The filing ~~shall~~ must be accompanied by a certificate from the presiding judge~~, clerk,~~ or court executive officer stating that (1) the court has complied with the applicable provisions of this rule; (2) the court does or does not post local rules on the court's Web site; and (3) the court does or does not provide assistance to members of the public in accessing the Internet or the court has delegated to and obtained the written consent of the county law librarian to provide public assistance under subdivision (e).

(3) Rules that do not comply with this rule will not be accepted for filing by the Judicial Council.

(Subd (d) amended effective January 1, 2003; adopted as subd (e) effective July 1, 1991; amended and relettered effective July 1, 1999.)

(e) [Deposit and maintenance of rules statewide for public inspection]

(1) The Judicial Council must publish a list of courts that have filed rules and amendments to rules with the Judicial Council. The Judicial Council ~~shall~~ must deposit a paper copy of each rule and amendment in the office of the executive officer of each superior court that does not provide assistance to members of the public in accessing the Internet or has not obtained agreement from the county law librarian to provide assistance under this subdivision.

(2) The executive officer ~~shall~~ must make a complete current set of ~~these~~ local rules and amendments available for public examination either in paper copy or through the Internet with public assistance. In a county maintaining an organized county law library, if the executive officer is satisfied that the rules and amendments will be maintained as required by this ~~subdivision~~ paragraph, the executive officer ~~shall,~~ with the approval of the superior court and the written consent of the county law librarian, may delegate the authority to the county law librarian to (1) receive and maintain paper copies of the rules and amendments, or (2) make the rules

and amendments available through the Internet with assistance to members of the public ~~to the county law librarian~~.

(3) On or before January 1 of each year, the executive officer of each court ~~shall~~ must notify the Judicial Council of the street address and room number of the place the rules are maintained under this subdivision.

(Subd (e) amended effective January 1, 2003; adopted as subd (f) effective July 1, 1991; amended and relettered effective July 1, 1999.)

(f) [Form]

(1) Paper ~~C~~copies may be typewritten or printed or produced by other process of duplication ~~as defined in subdivision (*l*) of rule 40~~ at the option of the court. Electronic rules must be prepared in a format authorized by the Judicial Council. All copies must be clear and legible.

(2) Paper ~~C~~copies ~~shall~~ must conform, as far as is practicable, to the requirements of subdivision (b) of rule 201 except that both sides of the paper may be used, lines need not be numbered and may be single spaced, and the pages ~~shall~~ must not be permanently bound across the top but may be bound at the left side. ("Permanently bound" does not include binding with staples.) The left margin on the front and the right margin on the reverse ~~shall~~ must be at least one inch. The name of the court ~~shall~~ must be at the top of each page. The effective date of each rule and amended rule ~~shall~~ must be stated in parentheses following the text of the rule.

(3) New pages ~~shall~~ must be issued for added, repealed, or amended rules, with a list of currently effective rules and the date of adoption or of the latest amendment to each rule. Filing instructions ~~shall~~ must accompany each set of replacement pages.

(4) The rules ~~shall~~ must have a table of contents. The rules ~~shall~~ must list all local forms and indicate whether their use is mandatory or optional. If the total length of the court rules exceeds five pages, the rules ~~shall~~ must have an alphabetical subject matter index at the end of the rules. All courts ~~shall~~ must use any subject matter index the Judicial Council may have specified.

(Subd (f) amended effective January 1, 2003; adopted as subd (g) effective July 1, 1991; amended and relettered effective July 1, 1999.)

(g) [Comment period for proposed rules] ~~Except for rules specifying the time of hearing and similar calendaring matters, all proposed rules shall be distributed for comment to the individuals and organizations specified in this subdivision in each county within a 100-mile radius of the county seat of the county in which the court is located. At least 45 days before the rules are adopted, the initial draft shall be distributed as follows:~~

~~(1) Civil rules to the county bar association in each county, the nearest office of the State Attorney General, and the county counsel in each county; and~~

~~(2) Criminal rules to the county bar association in each county, the nearest office of the State Attorney General, the district attorney in each county, and the public defender in each county.~~

~~A bar organization or newspaper may, upon request to the court, be placed on a mailing list to receive copies of proposed rules.~~

(1) *(Timing)* Except for rules specifying the time of hearing and similar calendaring matters, the court must distribute each proposed rule for comment at least 45 days before it is adopted.

(2) *(Organizations)* A proposed rule must be distributed for comment to the following organizations in each county located within a 100-mile radius of the county seat of the county in which the court is located:

(A) Civil rules to the county bar association in each county, the nearest office of the State Attorney General, and the county counsel in each county;

(B) Criminal rules to the county bar association in each county, the nearest office of the State Attorney General, the district attorney in each county, and the public defender in each county; and

(C) Upon request, any bar organization, newspaper, or other interested party.

(3) *(Methods)* A court may distribute a proposed rule for comment by one of the following methods:

(A) Distributing a copy of the proposal to every organization listed in subdivision (g) (2), or

(B) Posting the proposal on the court's Web site and distributing to every organization listed in subdivision (g) (2) a notice that the proposed rule has been posted for comment and that a hard copy of the proposal is available on request.

(Subd (g) amended effective January 1,2003; adopted as subd (h) effective July 1, 1991; relettered effective July 1, 1999.)

(h) [Periodic review] Each court ~~shall~~ must periodically review its local rules and repeal rules that have become outdated, unnecessary, or inconsistent with statewide rule or statute.

(Subd (h) amended effective January 1, 2003; adopted as subd (i) effective July 1, 1991; relettered effective July 1, 1999.)

(i)–(j) ***

Rule 981 amended effective January 1, 2003; adopted effective July 1, 1991; previously amended effective January 1, 1993, July 1, 1999, and July 1, 2001.

Rule 4.117. Qualifications for appointed trial counsel in capital cases

(a) [Purpose] This rule defines minimum qualifications for attorneys appointed to represent persons charged with capital offenses in the superior courts. These minimum qualifications are designed to promote adequate representation in death penalty cases and to avoid unnecessary delay and expense by assisting the trial court in appointing qualified counsel. Nothing in this rule is intended to be used as a standard by which to measure whether the defendant received effective assistance of counsel.

(b) [General qualifications] In cases in which the death penalty is sought, the court must assign qualified trial counsel to represent the defendant. The attorney may be appointed only if the court, after reviewing the attorney's background, experience, and training, determines that the attorney has demonstrated the skill, knowledge, and proficiency to diligently and competently represent the defendant. An attorney is not entitled to appointment simply because he or she meets the minimum qualifications.

(c) [Designation of counsel]

(1) If the court appoints more than one attorney, one must be designated lead counsel and meet the qualifications set forth in (d) or (f), and at least one

other must be designated associate counsel and meet the qualifications set forth in (e) or (f).

(2) If the court appoints only one attorney, that attorney must meet the qualifications set forth in (d) or (f).

(d) [Qualifications of lead counsel] To be eligible to serve as lead counsel, an attorney must:

(1) Be an active member of the State Bar of California;

(2) Be an active trial practitioner with at least 10 years' litigation experience in the field of criminal law;

(3) Have prior experience as lead counsel in either

(A) At least 10 serious or violent felony jury trials, including at least 2 murder cases, tried to argument, verdict, or final judgment; or

(B) At least 5 serious or violent felony jury trials, including at least 3 murder cases, tried to argument, verdict, or final judgment;

(4) Be familiar with the practices and procedures of the California criminal courts;

(5) Be familiar with and experienced in the use of expert witnesses and evidence, including, but not limited to, psychiatric and forensic evidence;

(6) Have completed within two years prior to appointment at least 15 hours of capital case defense training approved for Minimum Continuing Legal Education credit by the State Bar of California; and

(7) Have demonstrated the necessary proficiency, diligence, and quality of representation appropriate to capital cases.

(e) [Qualifications of associate counsel] To be eligible to serve as associate counsel, an attorney must:

(1) Be an active member of the State Bar of California;

(2) Be an active trial practitioner with at least three years' litigation experience in the field of criminal law;

(3) Have prior experience as

(A) Lead counsel in at least 10 felony jury trials tried to verdict, including 3 serious or violent felony jury trials tried to argument, verdict, or final judgment; or

(B) Lead or associate counsel in at least 5 serious or violent felony jury trials, including at least 1 murder case, tried to argument, verdict, or final judgment;

(4) Be familiar with the practices and procedures of the California criminal courts;

(5) Be familiar with and experienced in the use of expert witnesses and evidence, including, but not limited to, psychiatric and forensic evidence;

(6) Have completed within two years prior to appointment at least 15 hours of capital case defense training approved for minimum continuing legal education credit by the State Bar of California; and

(7) Have demonstrated the necessary proficiency, diligence, and quality of representation appropriate to capital cases.

(f) [Alternative qualifications] The court may appoint an attorney even if he or she does not meet all of the qualifications set forth in (d) or (e) if the attorney demonstrates the ability to provide competent representation to the defendant. If the court appoints counsel under this subdivision, it must state on the record the basis for finding counsel qualified. In making this determination, the court must consider whether the attorney meets the following qualifications:

(1) The attorney is an active member of the State Bar of California or admitted to practice *pro hac vice* pursuant to rule 983;

(2) The attorney has demonstrated the necessary proficiency, diligence, and quality of representation appropriate to capital cases;

(3) The attorney has had extensive criminal or civil trial experience;

(4) Although not meeting the qualifications set forth in (d) or (e), the attorney has had experience in death penalty trials other than as lead or associate counsel;

(5) The attorney is familiar with the practices and procedures of the California criminal courts;

(6) The attorney is familiar with and experienced in the use of expert witnesses and evidence, including, but not limited to, psychiatric and forensic evidence;

(7) The attorney has had specialized training in the defense of persons accused of capital crimes, such as experience in a death penalty resource center;

(8) The attorney has ongoing consultation support from experienced death penalty counsel;

(9) The attorney has completed within the past two years prior to appointment at least 15 hours of capital case defense training approved for Minimum Continuing Legal Education credit by the State Bar of California; and

(10) The attorney has been certified by the State Bar of California's Board of Legal Specialization as a criminal law specialist.

(g) **[Public defender appointments]** When the court appoints the Public Defender under Penal Code section 987.2, the Public Defender should assign an attorney from that office or agency as lead counsel who meets the qualifications described in (d) or assign an attorney that he or she determines would qualify under (f). If associate counsel is designated, the Public Defender should assign an attorney from that office or agency who meets the qualifications described in (e) or assign an attorney he or she determines would qualify under (f).

(h) **[Standby or advisory counsel]** When the court appoints standby or advisory counsel to assist a self-represented defendant, the attorney must qualify under (d) or (f) of this rule.

Rule 4.117 adopted effective January 1, 2003.

~~DIVISION Ia. General Rules~~

Title Five, Special Rules for Trial Courts—Division I, Rules Pertaining to Proceedings Involving Children and Families—Division Ia, General Rules; repealed effective January 1, 2003; adopted effective July 1, 1998.

DIVISION I~~b~~a. Family Law Rules

Title Five, Special Rules for Trial Courts—Division I, Rules Pertaining to Proceedings Involving Children and Families—Division Ia, Family Law Rules; renumbered effective January 1, 2003; previously renumbered division Ib effective July 1, 1998.

~~Rule 1200. Judicial education for family court judicial officers~~

~~Every judicial officer whose principal judicial assignment is to hear family law matters or who is the sole judge hearing family law matters shall, if funds are available, attend the following judicial education programs:~~

~~(1) *(Basic family law education)* Within three months of beginning a family law assignment, or within one year of beginning a family law assignment in courts with five or fewer judges, the judicial officer shall attend a basic educational program on California family law and procedure designed primarily for judicial officers. A judicial officer who has completed the basic educational program need not attend the basic educational program again. All other judicial officers who hear family law matters, including retired judges who sit on court assignment, shall participate in appropriate family law educational programs.~~

~~(2) *(Continuing family law education)* The judicial officer shall attend a periodic update on new developments in California family law and procedure.~~

~~(3) *(Other family law education)* To the extent that judicial time and resources are available, the judicial officer shall attend additional educational programs on other aspects of family law including interdisciplinary subjects relating to the family.~~

Rule 1200 repealed effective January 1, 2003; adopted effective January 1, 1992. The repealed rule related to judicial education for family court judicial officers.

Rule ~~1201~~5.10. Definitions

As used in ~~these rules~~this division, unless the context or subject matter otherwise requires:

(a) ***

(b) "Party," "petitioner," "respondent," "plaintiff," "defendant," "other parent," or any other designation of a party includes such party's attorney of record. When

a notice or other paper is required to be given or served on a party, such notice or service ~~shall~~must be given to or made on the party's attorney of record if the party has an attorney of record.

(Subd (b) amended effective January 1, 2003; previously amended effective January 1, 1999.)

(c) "Proceeding" means a proceeding ~~pursuant to~~under the Family Code for dissolution of marriage, nullity of marriage, legal separation, custody and support of minor children, or actions under the Domestic Violence Prevention Act, the Uniform Parentage Act, the Uniform Child Custody Jurisdiction and Enforcement Act, or the Uniform Interstate Family Support Act; ~~and district attorney child~~local child support agency ~~support~~ actions ~~pursuant to~~under ~~sections 11350, 11350, and 11475.1 of the Welfare and Institutions~~the Family Code; and contempt proceedings relating to ~~Family~~ family ~~Law~~ law or ~~district attorney~~local child support agency ~~support~~ actions.

(Subd (c) amended effective January 1, 2003; previously amended effective January 1, 1999.)

(d) ***

(e) ***

~~**(f)** Any references in these rules to the Family Law Act or to provisions of the Civil Code that have been relocated to the Family Code shall be deemed to refer to the corresponding provisions of the Family Code.~~

(Subd (f) repealed effective January 1, 2003.)

Rule 5.10 amended and renumbered effective January 1, 2003; adopted as rule 1201 effective January 1, 1970; previously amended effective January 1, 1994, and January 1, 1999.

Rule ~~1202~~5.11. Construction of terms

(a) "~~Shall~~Must" is mandatory, and "may" is permissive.

(Subd (a) amended effective January 1, 2003.)

(b) The past, present, and future tense ~~shall~~ each includes the others.

(Subd (b) amended effective January 1, 2003.)

(c) The singular and plural number ~~shall~~ each includes the other.

(Subd (c) amended effective January 1, 2003.)

(d) ***

Rule 5.11 amended and renumbered effective January 1, 2003; adopted as rule 1202 effective January 1, 1970.

Rule ~~1203~~5.15. Extensions of time

The time within which any act is permitted or required to be done by a party under these rules may be extended by the court upon such terms as may be just.

Rule 5.15 renumbered effective January 1, 2003; adopted as rule 1203 effective January 1, 1970.

Rule ~~1204~~5.16. Holidays

If any day on which an act permitted or required to be done by these rules falls on a legal holiday, the act may be performed on the next succeeding judicial day.

Rule 5.16 renumbered effective January 1, 2003; adopted as rule 1204 effective January 1, 1970.

Rule ~~1205~~5.20. Applicability of rules

The rules in this division apply to every action and proceeding as to which the Family Code applies and, unless these rules elsewhere explicitly make them applicable, do not apply to any other action or proceeding~~ except for proceedings formerly brought under chapters 1608 and 1609 of the Statutes of 1969 (Family Law Act)~~.

~~Chapter 3.5 of this division applies to summary dissolution proceedings pursuant to sections 2400–2406 of the Family Code, and Chapters 2, 2.5, 2.6, 2.7, and 5 of this division do not apply to such proceedings.~~

~~Chapters 2, 2.6, 2.7, 4, and 5 of this division apply to district attorney support proceedings filed under the Welfare and Institutions Code. Other chapters do not apply to district attorney support proceedings.~~

Rule 5.20 amended and renumbered effective January 1, 2003; adopted as rule 1205 effective January 1, 1970; previously amended effective January 1, 1979, January 1, 1994, and January 1, 1999.

Rule ~~1206~~5.21. General law applicable

Except as otherwise provided in these rules, all provisions of law applicable to civil actions generally apply ~~regardless of nomenclature to a proceeding pursuant to the Family Code~~ to a proceeding under the Family Code if they would otherwise apply to such proceeding without reference to this rule. To the extent that these rules conflict with ~~such~~ provisions in other statutes or rules, these rules ~~shall~~ prevail.

Rule 5.21 amended and renumbered effective January 1, 2003; adoptedas rule 1206 effective January 1, 1970; previously amended effective January 1, 1994.

Rule ~~1207~~5.22. Other proceedings

In any action ~~pursuant to~~under the Family Code but not otherwise subject to these rules by virtue of ~~subdivision (c) of~~ rule ~~1201~~ 5.10(c), ~~including but not limited to those proceedings authorized by sections 3021, 3041, 3120, and 4000 of the Family Code,~~ all provisions of law applicable to civil actions generally apply. ~~regardless of nomenclature if they would otherwise apply to such actions without reference to this rule, but the~~Such an action ~~shall~~must be commenced by filing an appropriate petition, ~~and defended by filing an~~ and the respondent must file an appropriate response within 30 days after service ~~upon the respondent~~ of the summons and a copy of the petition.

Rule 5.22 amended and renumbered effective January 1, 2003; adopted as rule 1207 effective January 1, 1970; amended effective January 1, 1994.

Rule ~~1278~~5.25. Status of family law and domestic violence forms

~~Each~~ All forms adopted or approved by the Judicial Council for use in any proceeding under the Family Code, including ~~but not limited to forms adopted as rules 1281-1299.74 and forms adopted in the ADOPT, DV, and FJ series of forms,~~ any form in the FL, ADOPT, DV, and FJ series, are adopted as rules of court under the authority of Family Code section 211; article VI, section 6 of the California Constitution; and other applicable law.

Rule 5.25 amended and renumbered effective January 1, 2003; adopted as rule 1278 effective January 1, 2001.

Rule ~~1275~~5.26. Use of forms in nonfamily law proceedings

The forms specified by this ~~chapter~~ division may be used, at the option of the party, in any proceeding involving a financial obligation growing out of the relationship of parent and child or husband and wife, to the extent they are appropriate to that proceeding.

Rule 5.26 amended and renumbered effective January 1, 2003; adopted as rule 1275 effective July 1, 1985.

Rule ~~1276~~5.27. Use of interstate forms

Notwithstanding any other provision of these rules, all Uniform Interstate Family Support Act forms approved by either the National Conference of Commissioners on Uniform State Laws or the U.S. Department of Health and Human Services are adopted for use in family law and other support actions in California.

Rule 5.27 renumbered effective January 1, 2003; adopted as rule 1276 effective July 1, 1988; amended effective January 1, 1998.

Rule ~~1200~~5.30. Judicial education for family court judicial officers

Every judicial officer whose principal judicial assignment is to hear family law matters or who is the sole judge hearing family law matters ~~shall~~must, if funds are available, attend the following judicial education programs:

~~(1)~~(a) ~~([~~[Basic family law education]~~)~~ Within ~~three~~six months of beginning a family law assignment, or within one year of beginning a family law assignment in courts with five or fewer judges, the judicial officer ~~shall~~ must attend a basic educational program on California family law and procedure designed primarily for judicial officers. A judicial officer who has completed the basic educational program need not attend the basic educational program again. All other judicial officers who hear family law matters, including retired judges who sit on court assignment, ~~shall~~ must participate in appropriate family law educational programs.

(Subd (a) amended and reletterd effective January 1, 2003; adopted as subd (1) effective January 1, 1992.)

~~(2)~~**(b)** ~~(~~**[Continuing family law education]**~~)~~ The judicial officer ~~shall~~ must attend a periodic update on new developments in California family law and procedure.

(Subd (b) amendedand relettered effective January 1, 2003; adopted as subd (2) effective January 1, 1992.)

~~(3)~~**(c)** ~~(~~**[Other family law education]**~~)~~ To the extent that judicial time and resources are available, the judicial officer ~~shall~~ must attend additional educational programs on other aspects of family law including interdisciplinary subjects relating to the family.

(Subd (c) amendedand relettered effective January 1, 2003; adopted as subd (3) effective January 1, 1992.)

Rule 5.30 amended and relettered effective January 1, 2003; adopted as rule 1200 effective January 1, 1992.

Rule ~~1208~~5.35. Minimum standards for the Office of the Family Law Facilitator

(a) [Authority] These standards are adopted ~~pursuant to~~ under Family Code section 10010.

(Subd (a) amended effective January 1, 2003.)

(b) [Family law facilitator qualifications] The Office of the Family Law Facilitator must be headed by at least one attorney, who is an active member of the State Bar of California, known as the family law facilitator. Each family law facilitator ~~shall~~must possess the following qualifications:

(1) A minimum of five years experience in the practice of law, which ~~shall~~must include substantial family law practice including litigation and/or mediation;

(2) Knowledge of family law procedures;

(3) Knowledge of the child support establishment and enforcement process under Title IV-D of the federal Social Security Act (42 U.S.C. § 651 et seq.);

(4) Knowledge of child support law and the operation of the uniform state child support guideline; and

(5) Basic understanding of law and psychological issues related to domestic violence.

(Subd (b) amended effective January 1, 2003.)

(c) ***

(d) ***

(e) ***

(f) ***

(g) [Grievance procedure] Each court must develop a written protocol for a grievance procedure for processing and responding to any complaints against a family law facilitator.

(Subd (g) adopted effective January 1, 2003.)

~~(g)~~(h) [Training requirements] Each family law facilitator should attend at least one training per year for family law facilitators provided by the Judicial Council.

(Subd (h) relettered effective January 1, 2003; adopted as subd (g) effective January 1, 2000.)

Rule 5.35 amended and renumbered effective January 1, 2003; adopted as rule 1208 effective January 1, 2000.

CHAPTER 2. Procedural Rules

Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter 2, Procedural Rules; adopted effective January 1, 1970.

Rule ~~1210~~5.100. Designation of parties

In proceedings filed under the Family Code, except for ~~district attorney child support~~local child support agency actions, the party initiating the proceeding is the petitioner, and the other party is the respondent. In ~~district attorney child support~~local child support agency actions, the responding party is the defendant and the parent who is not the defendant is referred to as the "Other Parent." Every other proceeding ~~shall~~must be prosecuted and defended in the names of the real parties in interest.

Rule 5.100 amended and renumbered effective January 1, 2003; adopted as rule 1210 effective January 1, 1970; previously amended effective January 1, 1999.

Rule ~~1211~~5.102. Parties to proceeding

(a) Except as provided in ~~subdivision~~ (b) or in rules ~~1250~~ 5.150 through ~~1255~~5.160, the only persons permitted to be parties to a proceeding for dissolution, legal separation, or nullity are the husband and wife.

(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 1977, and January 1, 1999.)

(b) In a nullity proceeding commenced by a person specified in Family Code section 2211, other than a proceeding commenced by or on behalf of the husband or wife, the person initiating the proceeding is a party and the caption on all papers ~~shall~~must be suitably modified to reflect that fact.

(Subd (b) amended effective January 1, 2003; previously amended effective January 1, 1994.)

Rule 5.102 amended and renumbered effective January 1, 2003; adopted as rule 1211 effective January 1, 1970; previously amended effective January 1, 1977, January 1, 1994, and January 1, 1999.

Rule ~~1212~~5.104 Other causes of action

Neither party to the proceeding may assert against the other party or any other person any cause of action or claim for relief other than for the relief provided in these rules, ~~Welfare and Institutions Code~~ Family Code sections ~~11350~~17400, ~~11350.1~~17402, and ~~11475.1~~17404, or other sections of the Family Code.

Rule 5.104 amended and renumbered effective January 1, 2003; adopted as rule 1212 effective January 1, 1970; previously amended effective January 1, 1994, and January 1, 1999.

Rule ~~1213~~5.106. Injunctive relief and reservation of jurisdiction

(a) Upon application as set out in rule 5.118, the court may grant injunctive or other relief against or for the following persons to protect the rights of either or both parties to the proceeding under the Family Code:

(1) ~~If there is any~~ A person who has or claims an interest in the controversy;

(2) A person~~, or~~ who but for rule ~~1211~~5.102 would be a necessary party to a complete adjudication of the controversy; or

(3) ~~, or if there is~~ A person who is acting as a trustee, agent, custodian, or similar fiduciary with respect to any property subject to disposition by the court in the proceeding, or other matter subject to the jurisdiction of the court in the proceeding.

(Subd (a) amended effective January 1, 2003.)

(b) ~~the court may grant injunctive or other relief against any to protect the rights of either or both of the parties to the proceeding under the Family Code upon application therefor in the manner prescribed by rule 1225~~If the court is unable to resolve the issue in the proceeding under the Family Code and, the court may reserve jurisdiction over the particular issue until such time as the rights of such person and the parties to the proceeding under the Family Code have been adjudicated in a separate action or proceeding.

(Subd (b) amended effective January 1, 2003.)

Rule 5.196 amended and renumbered effective January 1, 2003; adopted as rule 1213 effective January 1, 1970; previously amended effective January 1, 1994.

Rule ~~1215~~5.108. Pleadings

(a) The forms of pleading and the rules by which the sufficiency of pleadings is to be determined are solely those prescribed in these rules. Demurrers ~~and other forms of pleading may~~ must not be used. ~~unless specifically permitted by these rules.~~

(Subd (a) amended effective January 1, 2003.)

~~**(b)** The only pleading permitted by a petitioner to initiate an action for dissolution, legal separation, or nullity is the petition in the form prescribed by rule 1281. In an action to establish parental relationship, the only pleading permitted by a petitioner to initiate an action is a petition in the form prescribed by rule 1296.60, except for an action filed by the district attorney pursuant to Welfare and Institutions sections 11350 and 11350. The only pleading permitted by a petitioner to initiate an action under the Domestic Violence Prevention Act is an order to show cause in the form prescribed by rule DV-110. The only pleading permitted by the district attorney to initiate an action under Welfare and Institutions Code sections 11350 and 11350 is in the form prescribed by rule 1299.01. In a case brought under the Uniform Interstate Family Support~~

~~Act, the only pleadings permitted to initiate an action are in the forms prescribed by rule.~~

(Subd (b) repealed effective January 1, 2003; amended effective January 1, 1999.)

~~(c)~~ ~~The only pleading permitted by a respondent to respond to an action for dissolution, legal separation, or nullity is the response prescribed by rule 1282. To respond to an action to establish parental relationship, the only pleading permitted by a respondent is a response in the form prescribed by rule 1296.65 except for an action filed by the district attorney pursuant to Welfare and Institutions Code sections 11350 and 11350.1. The only pleading permitted by a respondent to respond to an action under the Domestic Violence Prevention Act is the responsive declaration in the form prescribed by rule DV-120. The only pleading permitted by the defendant to answer an action initiated by the district attorney under Welfare and Institutions Code sections 11350.1 and 11350.1 is in the form prescribed by rule 1299.04.~~

(Subd (c) repealed effective January 1, 2003; amended effective January 1, 1999.)

(~~d~~b) Amendments to pleadings, amended pleadings, and supplemental pleadings may be served and filed in conformity with the provisions of law applicable to such matters in civil actions generally, but ~~there need be no reply by~~ the petitioner is not required to file a reply if the respondent has filed a response. If both parties have filed pleadings, there may be no default entered on an amended pleading of either party.

(Subd (b) amended and relettered effective January 1, 2003; adopted as subd (d) effective January 1, 1970.)

Rule 5.108 amended and renumbered effective January 1, 2003; adopted as rule 1215 effective January 1, 1970; previously amended effective January 1, 1999.

Rule ~~1216~~5.110. Summons; restraining order

(a) [Issuing the summons; form] Except for support proceedings initiated by ~~the~~ a local child support agency, the procedure for issuance of summons in the proceeding ~~shall be~~ is that applicable to civil actions generally. ~~except that t~~The clerk ~~shall~~must not return the original summons, but ~~rather shall~~must maintain it in the file. ~~The summons for a dissolution, legal separation, or nullity proceeding shall be in the form prescribed by rule 1283. For a proceeding to establish parentage under the Uniform Parentage Act, the summons shall be in the form prescribed by rule 1296.605.~~

(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 1999, and January 1, 2001.)

~~**(b) [Service of summons]** A copy of the petition, together with a copy of the summons or a copy of the Summons and Complaint (rule 1299.01), shall be served upon the respondent or defendant in the manner provided for service of summons in civil actions generally, and proof of such service shall be made in the manner provided for proof of service of summons in civil actions generally.~~

(Subd (b) repealed effective January 1, 2003; amended effective January 1, 1999, and January 1, 2001.)

(~~c~~b) [Standard family law restraining order; handling by clerk] Notwithstanding Family Code section 233, a summons (Form FL-110 or FL-210) with the standard family law restraining orders ~~shall~~must be issued and filed in the same manner as a summons in a civil action and ~~shall~~must be served and enforced ~~same as~~in the manner prescribed for any other restraining order. If service is by publication, the publication ~~shall~~need not include the restraining orders.

(Subd (b) amended and relettered effective January 1, 2003; adopted as subd (c) effective July 1, 1990; previously amended effective January 1, 1994, and January 1, 1999.)

(~~d~~c) [Individual restraining order] On application of a party and as provided in the Family Code, a court may issue any individual restraining order~~, as provided in the Family Code,~~ that appears to be reasonable or necessary, including those restraining orders included in the standard family law restraining orders. Individual orders supersede the standard family law restraining orders on the ~~f~~Family ~~l~~Law and Uniform Parentage Act summons.

(Subd (c) amended and relettered effective January 1, 2003; adopted as subd (d) effective July 1, 1990; previously amended effective January 1, 1994, and January 1, 1999.)

Rule 5.110 amended and renumbered effective January 1, 2003; adopted as rule 1216 effective January 1, 1970; previously amended effective July 1, 1990, January 1, 1994, January 1, 1999, and January 1, 2001.

Rule ~~1217~~5.112. Continuing jurisdiction

The court has jurisdiction of the parties and control of all subsequent proceedings from the time of service of the summons and a copy of the petition. A general appearance of the respondent is equivalent to personal service within this state of the summons and a copy of the petition upon him or her.

Rule 5.112 amended and renumbered effective January 1, 2003; adopted as rule 1217 effective January 1, 1970.

~~Rule 1218. Duties of clerk~~

~~The functions of the clerk with respect to filing and endorsement of the petition and other papers filed in the proceeding shall be those applicable to civil actions generally.~~

Rule 1218 repealed effective January 1, 2003; adopted effective January 1, 1970. The repealed rule related to the duties of a clerk.

~~Rule 1219. Lis pendens~~

~~In a proceeding under the Family Code, either party may record a notice of pendency of the proceeding under the circumstances and in the manner provided by section 409 of the Code of Civil Procedure.~~

Rule 1219 repealed effective January 1, 2003; adopted effective January 1, 1970; amended effective January 1, 1994. The repealed rule related to lis pendens.

~~Rule 1220. Costs~~

~~The provisions of chapter 6 (commencing with section 1021) of title 14 of part 2 of the Code of Civil Procedure are applicable to contested proceedings under the Family Code in the same manner as in civil actions generally.~~

Rule 1220 repealed effective January 1, 2003; adopted effective January 1, 1970; amended effective January 1, 1994.

Rule ~~1221~~5.114. Alternative relief

A party seeking alternative relief ~~shall~~must so indicate ~~his request by such designations as are appropriate~~ in the petition or response.

Rule 5.114 amended and renumbered effective January 1, 2003; adopted as rule 1221 effective January 1, 1970.

~~Rule 1222. Commencement of proceeding~~

~~A party who seeks a judicial determination altering that party's marital status pursuant to the Family Code shall complete and file in the superior court a petition~~

~~in the form prescribed by rule 1281. The proceeding is commenced upon the filing of this petition.~~

Rule 1222 repealed effective January 1, 200; adopted effective January 1, 1970; amended effective January 1, 1994.

Rule ~~1223~~5.116. Stipulation for judgment

(a) A stipulation for judgment ~~in the form prescribed by rule 1287 or rule 1289, as may be appropriate to the relief sought~~(which must be attached to form FL-180 or form FL-250) may be submitted to the court for signature at the time of the hearing on the merits and ~~shall~~must contain the exact terms of any judgment proposed to be entered in the case. At the end ~~thereof~~, immediately above the space reserved for the judge's signature, the stipulation for judgment ~~shall~~must contain the following:

The foregoing is agreed to by

_____	_____
(Petitioner)	(Respondent)
_____	_____
(Attorney for Petitioner)	(Attorney for Respondent)

(Subd (a) amended effective January 1, 2003.)

(b) ~~The~~ A stipulation for judgment ~~shall~~must include disposition of all matters subject to the court's jurisdiction for which a party seeks adjudication or an explicit reservation of jurisdiction over any matter not proposed for disposition at that time. ~~The~~ A stipulation for judgment ~~shall~~ constitutes a written agreement between the parties as to all matters covered ~~therein~~by the stipulation.

(Subd (b) amended effective January 1, 2003.)

Rule 5.116 amended and renumbered effective January 1, 2003; adopted as rule 1223 effective January 1, 1970; previously amended effective January 1, 1972.

Rule ~~1225~~5.118. Application for court order

~~**(a)** An application for an injunctive or other order against a party or any other person, the response thereto, and to the extent that these rules so provide all~~

~~attachments thereto, shall be in the appropriate form prescribed by Chapter 4 of these rules. The court may grant or deny the relief solely on the basis of the application and responses and any accompanying memorandum of points and authorities, and an injunction may be granted under the circumstances and in the manner provided by sections 526, 527, 528, and 529 of the Code of Civil Procedure, except that~~

~~(1) there shall be no continuance of a hearing granted as a matter of right where the court determines that the interests of justice require an immediate hearing; and~~

(a) ~~n~~No memorandum of points and authorities need be filed with an application for a court order unless required by the court on a case-by-case basis.

(Subd (a) amended effective January 1, 2003; previousl amended effective January 1, 1972, January 1, 1980, and January 1, 1999.)

(b) A completed ~~i~~*Income and* ~~e~~*Expense* ~~d~~*Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155), ~~p~~*Property* ~~d~~*Declaration* (form FL-160), and ~~a~~*Application for* ~~o~~*Order and* ~~s~~*Supporting* ~~d~~*Declaration* (form FL-320) ~~in the form prescribed by rules 1285.20, 1285.50, 1285.50a, 1285.50b, 1285.50c, or 1285.52 and 1285.55 shall~~must be attached to an application for an injunctive or other order when relevant to the relief requested.

(Subd (b) amended effective January 1, 2003; adopted effective January 1, 1972; previously amended effective July 1, 1977, January 1, 1980, and January 1, 1999.)

(c) A copy of the ~~a~~*Application for* ~~o~~*Order and* ~~s~~*Supporting* ~~d~~*Declaration* with all attachments ~~a copy of the order endorsed by the clerk if relief is sought by *order to show cause*~~ and a blank copy of the ~~r~~*Responsive* ~~d~~*Declaration* ~~in the form prescribed by rule 1285.40~~(form FL-394) ~~shall~~must be served on the person against whom relief is requested. The original application and order ~~shall~~must be retained in the court file.

(Subd (c) amended effective January 1, 2003; adopted as part of subd (b) effective January 1, 1972.)

(d) If relief is sought by an *Order to Show Cause*, a copy of the order endorsed by the clerk must be served.

(Subd (d) adopted effective January 1, 2003.)

(e) Blank copies of the ~~i~~*Income and* ~~e~~*Expense* ~~d~~*Declaration* or *Financial Statement (Simplified)* and the ~~p~~*Property* ~~d~~*Declaration* ~~in the form prescribed by rules 1285.50, 1285.50a, 1285.50b, 1285.50c, or 1285.52 and 1285.55 shall~~ must be served when completed declarations are among the papers required to be served.

(Subd (e) amended effective January 1, 2003; adopted as part of subd (b) effective January 1, 1972.)

Rule 1225 renumbered and amended effective January 1, 2003; amended effective January 1, 1999; previously amended effective January 1, 1972, July 1, 1977, and January 1, 1980; adopted effective January 1, 1970.

~~Rule 1226. Orders to show cause re contempt~~

~~Every order to show cause re contempt and supporting declaration in a proceeding under the Family Code shall be in the form prescribed by rule 1285.60.~~

Rule 1226 repealed effective January 1, 2003; adopted effective January 1, 1970; amended effective january 1, 1972, and January 1, 1994. The repealed rule related to order to show cause re contempt.

~~Rule 1227. Responsive pleading~~

~~A responsive pleading may be served and filed within 30 days of the date of the service of a copy of the petition or complaint and summons on the respondent or defendant.~~

Rule 1227 repealed effective January 1, 2003; adopted effective January 1, 1970; amended effective January 1, 1999. The repealed rule related to responsive pleadings.

~~Rule 1229. Motion to strike~~

~~(a)~~ ~~Neither the petition or the response shall contain any matter not specifically required by rule 1281 or rule 1282, respectively. At the request of either party upon noticed motion, or on the court's own motion, any matter not so required may be stricken by the court or otherwise disregarded by it.~~

~~(b)~~ ~~A notice of motion to strike pursuant to this rule shall distinctly specify the matter to be stricken and the reasons therefor. Unless it does so, the motion may be disregarded by the court.~~

(c) A motion to strike any matter in a pleading pursuant to this rule does not extend the time within which to file a response.

(d) The provisions of sections 435 and 453 of the Code of Civil Procedure do not apply to these proceedings.

Rule 1229 repealed effective January 1, 2003; adopted effective January 1, 1970. The repealed rule related to motions to strike.

Rule 1230. Motion to quash proceeding

(a) Within the time permitted to file a response, the respondent may move to quash the proceeding, in whole or in part, for any of the following:

(1) Petitioner's lack of legal capacity to sue.

(2) That there is a prior judgment or another action pending between the same parties for the same cause.

(3) That the residence required by Family Code section 2320 is lacking.

(4) That Family Code section 2211 prevents maintenance of the proceeding.

A party waives the matters set forth above if they are not raised by filing a motion to quash pursuant to this rule within the time permitted to file a response.

(b) The notice of motion to quash pursuant to this rule shall specify a hearing date not more than 20 days from the date of filing such notice. If the respondent files a notice of motion pursuant to this rule, no default may be entered against him and his time to file a response shall be extended until 15 days after notice of the court's ruling.

(c) A notice of motion to quash pursuant to this rule shall distinctly specify the ground upon which the motion is based. Unless it does so, the motion may be disregarded by the court.

(d) When a motion to quash pursuant to this rule is based on a matter of which the court may take judicial notice pursuant to section 452 or 453 of the Evidence Code, such matter shall be specified in the motion or in the supporting memorandum of points and authorities for the purpose of invoking such notice except as the court may otherwise permit.

Rule 1230 repealed effective January 1, 2003; adopted effective January 1, 1970; amended effective January 1, 1994. The repealed rule related to motions to quash a proceeding.

~~Rule 1231. Filing of response~~

~~A response may be filed at the same time as a motion to strike pursuant to rule 1229 or a motion to quash pursuant to rule 1230, or both, is filed.~~

Rule 1231 repealed effective January 1, 2003; adopted effective january 1, 1970. The repealed rule related to the filing of a response.

~~Rule 1232. Ruling on motion to quash~~

~~(a)~~ ~~A defense which is raised by a motion to quash pursuant to rule 1230 is not waived by later filing a response.~~

~~(b)~~ ~~When a motion to quash pursuant to rule 1230 is granted, the court may grant leave to amend the petition and shall fix the time within which such amendment to the pleading or amended pleading shall be filed. When the court makes an order granting a motion to quash pursuant to rule 1230 without leave to amend, and the proceeding is dismissed pursuant to rule 1233, the question as to whether the court abused its discretion in making the order is open on appeal even though no request to amend was made.~~

~~(c)~~ ~~When a motion to quash pursuant to rule 1230 is granted and time to amend is given, or when such motion is denied and time to respond is given, the time given runs from the service of notice of the order unless such notice is waived in open court and the waiver entered in the minutes.~~

Rule 1232 repealed effective January 1, 2003; adopted effective January 1, 1970. The repealed rule related to ruling on a motion to quash.

~~Rule 1233. Dismissal of proceeding~~

~~A proceeding may be dismissed by the court when a motion to quash pursuant to rule 1230 is sustained without leave to amend, or when, after a motion to quash pursuant to rule 1230 has been sustained with leave to amend, the petitioner fails to amend the petition within the time permitted by the court, and either party moves for such dismissal.~~

~~In other cases, the proceeding may be dismissed under the circumstances and in the manner provided by sections 581, 581c, 581d, and chapter 1.5 (§ 583.110 et seq.) of title 8 of part 2 of the Code of Civil Procedure.~~

Rule 1233 repealed effective January 1, 2003; adopted effective January 1, 1970; amended effective January 1, 1986. The repealed rule related to dismissal of a proceeding.

~~Rule 1234. Motion to quash summons~~

~~In a proceeding under the Family Code, a respondent may serve and file a notice of motion to quash the service of summons upon the ground of lack of jurisdiction of the court over that person or a notice of the filing of a petition for writ of mandate under the circumstances and in the manner provided by section 418.10 of the Code of Civil Procedure.~~

Rule 1234 repealed effective January 1, 2003; adopted effective January 1, 1970; amended effective January 1, 1977, and January 1, 1994. The repealed rule related to motions to quash a summons.

~~Rule 1235. Motion to transfer~~

~~In a proceeding under the Family Code, a respondent may serve and file a notice of motion to transfer the proceeding under the circumstances and in the manner provided by title 4 (commencing with section 392) of part 2 of the Code of Civil Procedure, but there need be no affidavit of merits filed.~~

Rule 1235 repealed effective January 1, 2003;.adopted effective January 1, 1970; amended effective January 1, 1994. The repealed rule related to motions to transfer.

Rule ~~1236~~5.120. Appearance

(a) A respondent or defendant appears in a proceeding when he or she files:

(1) ~~a~~ A response or answer; ~~or~~

(2) ~~a~~ A notice of motion to strike, under section 435 of the Code of Civil Procedure; ~~pursuant to rule 1229, or~~

(3) ~~a~~ A notice of motion to quash the proceeding ~~pursuant to rule 1230 or~~ based on:

(A) Petitioner's lack of legal capacity to sue,

(B) Prior judgment or another action pending between the same parties for the same cause,

(C) Failure to meet the residence requirement of Family Code section 2320, or

(D) Statute of limitations in Family Code section 2211;

(4) ~~a~~ A notice of motion to transfer the proceeding under section 395 of the Code of Civil Procedure ~~pursuant to rule 1235, when the respondent or defendant files~~; or

(5) A written notice of his or her appearance.

(Subd (a) amended effective January 1, 2003.)

(b) After appearance, the respondent or defendant or his or her attorney is entitled to notice of all subsequent proceedings of which notice is required to be given by these rules or in civil actions generally.

(Subd (b) amended effective January 1, 2003.)

(c) Where a respondent or defendant has not appeared, notice of subsequent proceedings need not be given to the respondent or defendant except as provided in these rules.

(Subd (c) amended effective January 1, 2003.)

Rule 5.120 amended and renumbered effective January 1, 2003; adopted as rule 1236 effective January 1, 1970; previously amended effective January 1, 1972, and January 1, 1999.

Rule ~~1237~~5.122. Default

(a) Upon proper application of the petitioner, the clerk must enter the respondent's default ~~If~~ if the respondent or defendant fails within the time permitted to:

(1) Make an appearance as set forth in rule 5.120;

(2) File a notice of motion to quash service of summons under section 418.10 of the Code of Civil Procedure; or

(3) File a petition for writ of mandate under section 418.10 of the Code of Civil Procedure. ~~Respond to file a response, a notice of motion to quash the proceeding pursuant to rule 1230 a notice of motion to quash service of summons or a notice of the filing of a petition for writ of mandate pursuant to rule 1234, or a notice of motion to transfer the proceeding pursuant to rule 1235, the clerk shall enter the respondent's default upon proper application of the petitioner and thereafter the petitioner may apply to the court for the relief sought in the petition.~~

(Subd (a) amended effective January 1, 2003.)

(b) The petitioner may apply to the court for the relief sought in the petition at the time default is entered. The court ~~shall~~must require proof to be made of the facts stated in the petition and may enter its judgment accordingly. The court may permit the use of a completed ~~income and expense declaration~~*Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155) and ~~property declaration~~*Property Declaration* (form FL-160) ~~in the form prescribed by rules 1285.50 and 1285.55~~ as to all or any part of the proof required or permitted to be offered on any issue as to which they are relevant.

(Subd (b) amended effective January 1, 2003.)

Rule 5.122 amended and renumbered effective January 1, 2003; adopted asrule 1237 effective January 1, 1970; previously amended effective January 1, 1972, and January 1, 1980.

~~Rule 1238. Statements of fact~~

~~Unless controverted in the response, or unless a motion to quash pursuant to rule 1230(a)(3) be made, every material statement of fact in the petition shall be taken as true for the purpose of the proceeding. All statements of fact and requests for relief contained in the response shall be deemed controverted. There shall be no reply by petitioner to such matters except as permitted by rule 1239~~

Rule 1238 repealed effective January 1, 2003; adopted effective January 1, 1970. The repealed rule related to statements of fact.

~~Rule 1239. Motion to quash responsive relief~~

~~(a)~~ ~~Within 15 days after the filing of the response, the petitioner may move to quash, in whole or in part, any request for affirmative relief in the response for any of the following:~~

(1) Respondent's lack of legal capacity to sue.

(2) That there is a prior judgment or another action pending between the same parties for the same cause.

(3) That the residence required by Family Code section 2320 is lacking.

(4) That Family Code section 2211 prevents maintenance of the proceeding.

The petitioner waives the matters set forth above if they are not raised within 15 days after the filing of the response.

(Subd (a) amended effective January 1, 1994.)

(b) The notice of motion to quash pursuant to this rule shall specify a hearing date not more than 20 days from the date of filing such notice.

(c) A notice of motion to quash pursuant to this rule shall distinctly specify the ground upon which the motion is based. Unless it does so, the motion may be disregarded by the court.

(d) When a motion to quash pursuant to this rule is based on a matter of which the court may take judicial notice pursuant to section 452 or 453 of the Evidence Code, such matter must be specified in the motion or in the supporting memorandum of points and authorities for the purpose of invoking such notice except as the court may otherwise permit.

(e) When a motion to quash pursuant to this rule is granted, the court may grant leave to amend the response and shall fix the time within which such amendment to the pleading or amended pleading shall be filed. The time given runs from the service of notice of the order unless such notice is waived in open court and the waiver entered in the minutes.

(f) When the court makes an order granting a motion to quash pursuant to this rule without leave to amend, and the proceeding is dismissed pursuant to subdivision (g), the question as to whether the court abused its discretion in making the order is open on appeal even though no request to amend was made.

(g) The request for affirmative relief by the respondent may be dismissed by the court when a motion to quash pursuant to this rule is sustained without leave to amend, or when, after a motion to quash pursuant to this rule has been

~~sustained with leave to amend, the respondent fails to amend it within the time permitted by the court, and either party moves for such dismissal.~~

~~In other cases, the request for affirmative relief by the respondent may be dismissed under the circumstances and in the manner provided by sections 581, 581c, 581d, and chapter 1.5 (§ 583.110 et seq.) of title 8 of part 2 of the Code of Civil Procedure.~~

~~*(Subd (g) amended effective January 1, 1986.)*~~

Rule 1239 repealed effective January 1, 2003; adopted effective Janury 1, 1970; amended effective January 1, 1986, and January 1, 1994. The repealed rule related to motions to quash responsive relief.

Rule ~~1240~~5.124. Request for default

(a) No default may be entered in any proceeding unless a request ~~in the form prescribed by rule 1286~~ has been completed in full on a *Request to Enter Default* (form FL-165) and filed by the petitioner. However, an *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155) are not required if the petition contains no demand for support, costs, or attorney's fees. A *Property Declaration* (form FL-160) is not required if ~~but no financial declaration is required when~~ the petition contains no demand for ~~money,~~ property~~, costs, or attorney's fees~~ .

(Subd (a) amended effective January 1, 2003.)

(b) For the purpose of completing the declaration of mailing, unless service was by publication and the address of respondent is unknown, it is not sufficient to state that the address of the party to whom notice is given is unknown or unavailable.

Rule 5.124 amended and renumbered effective January 1, 2003; adopted as rule 1240 effective January 1, 1970; previously amended effective January 1, 1979 and January 1, 1980.

~~Rule 1241. Uncontested proceeding~~

~~In the following cases, which shall be treated as uncontested matters, the same procedure shall be followed and judgment shall be rendered in the same manner as if a default had been entered:~~

~~(a) If the respondent fails to file a response within the time permitted by the court after a motion to quash pursuant to rule 1230 is granted or denied, in whole or in part, and the proceeding is not dismissed pursuant to rule 1233.~~

~~(b) If the respondent fails to file a response within the time permitted by the court after denial of a motion to quash service of summons or denial of a writ of mandate, as provided in rule 1234.~~

~~(c) If the respondent fails to file a response within the time permitted after a ruling by the court on a motion to transfer pursuant to rule 1235.~~

~~(d) If the respondent files written notice of his appearance.~~

~~(e) If the respondent has appeared and the parties have stipulated that the matter be so treated.~~

Rule 1241 repealed effective January 1, 2003; adopted effective January 1, 1970; amended effective January 1, 1972. The repealed rule related to uncontested proceedings.

~~Rule 1242. Division of property~~

~~The court in every action for dissolution, nullity, or legal separation shall ascertain the nature and extent of all assets and obligations subject to disposition by the court in the proceeding and shall divide these assets and obligations as provided in the Family Code, except upon the written agreement of the parties or an oral stipulation of the parties made in open court. The court may require that any agreement be submitted to verify that there is no property subject to disposition by the court.~~

Rule1242 repealed effective January 1, 2003.

Rule ~~1242.5~~5.126. Alternate date of valuation

(a) [Notice of motion] ~~The~~ An *Application for Separate Trial* (form FL-325) must be used to provide the notice ~~referred~~ required by ~~to in~~ Family Code ~~§~~ section 2552(b)~~. shall consist of a noticed motion served upon all parties in the form prescribed by rule 1286.75.~~

(Subd (a) amended effective January 1, 2003.)

(b) [Declaration accompanying notice] ~~In addition to the requirements of rule 1286.75~~Form FL-325 ~~the notice shall~~must be accompanied by a declaration ~~which sets forth~~ stating the following:

(1) The proposed alternate valuation date;

(2) Whether the proposed alternate valuation date ~~shall apply~~ applies to all or only a portion of the assets and, if the motion is directed to only a portion of the assets, the declaration must separately identify each such asset; and

(3) The reasons supporting the alternate valuation date.

(Subd (b) amended effective January 1, 2003.)

Rule 5.126 amended and renumbered effective January 1, 2003; adopted as rule 1242.5 effective July 1, 1995.

Rule ~~1243~~5.128. Financial declaration

(a) A current ~~*i*~~*Income and* ~~*e*~~*Expense* ~~*d*~~*Declaration* (form FL-150) or a current *Financial Statement (Simplified)* (form FL-155), when such form is appropriate, and a current ~~*p*~~*Property* ~~*d*~~*Declaration* ~~in the form prescribed by rules 1285.50, 1285.50a, 1285.50b, 1285.50c, 1285.52, and 1285.55~~ (form FL-160) ~~shall~~must be served and filed by any party appearing at any hearing at which the court is to determine an issue as to which such declarations would be relevant. Current is defined as being completed within the past three months providing no facts have changed. Those forms ~~, and so much thereof shall~~must be sufficiently completed ~~as is applicable~~ to allow determination of the issue. ~~to be determined except that, unless otherwise ordered by the court in which the proceeding is pending, the income and expense declaration or Financial Statement (Simplified) need not be completed for any hearing on the merits when the matter is to be disposed of by default pursuant to rule 1237 or as an uncontested proceeding pursuant to rule 1241.~~

(Subd (a) amended effective January 1, 2003.)

(b) When a party is represented by counsel and attorney's fees are requested by either party, item 19 of the income information attachment to the income and expense declaration and item 4 on the expense information attachment shall be fully completed the section on the *Income and Expense Declaration* pertaining to the amount in savings, credit union, certificates of deposit, and money market accounts must be fully completed, as well as the section pertaining to the amount of attorney's fees incurred, currently owed, and the source of money used to pay such fees. A Financial Statement (Simplified) is appropriate for use when a party's sole income is from salary, wages, disability benefits, unemployment insurance, workers' compensation, Social Security, retirement

benefits, or public assistance.

(Subd (b) amended effective January 1, 2003.)

(c) A *Financial Statement (Simplified)* is not appropriate for use in proceedings to determine or modify spousal support or to determine attorney's fees.

Rule 5.128 amended and renumbered effective January 1, 2003; adopted as rule 1243 effective January 1, 1970; previously amended effective January 1, 1972, January 1, 1980, July 1, 1985, and January 1, 1999.

Rule ~~1271~~5.130. ~~Commencing the proceeding~~Summary Dissolution

~~**(a)** A proceeding for summary dissolution is commenced by completing and filing in the superior court a joint petition for summary dissolution in the form prescribed by rule 1295.10.~~

(~~b~~a) [Declaration of disclosure] For the purposes of a proceeding for summary dissolution under chapter 5 (beginning with section 2400) of part 3 of division 6 of the Family Code, attachment to the petition of completed worksheet pages listing separate and community property and obligations ~~shall~~ as well as an *Income and Expense Declaration* (form FL-150) or *Financial Statement (Simplified)* (form FL-155) constitutes compliance with the disclosure requirements of chapter 9 (beginning with section 2100) of part 1 of division 6 of the Family Code.

(Subd (a) amended and relettered effective January 1, 2003; adopted as subd (b) effective January 1, 1993; previously amended effective January 1, 1994.)

(~~c~~b) [Fee for filing] The fee for filing ~~the~~a ~~joint~~ *Joint ~~petition~~ Petition ~~shall be~~ for Summary Dissolution of Marriage* (form FL-800) is the same as that charged for filing a ~~*p*~~*Petition* ~~in the form prescribed by rule 1281~~ (form FL-100.) No additional fee ~~shall~~ may be charged for the filing of any form prescribed for use in a summary dissolution proceeding, except as required by Government Code section 26859.

(Subd (b) amended and relettered effective January 1, 2003; adopted as subd (b) effective January 1, 1979; previously relettered subd (c) effective January 1, 1993.)

Rule 5.130 amended and renumbered effective January 1, 2003; adopted as rule 1271 effective January 1, 1979; previously amended effective January 1, 1993, and January 1, 1994.

~~**Rule 1244. Judgment**~~

~~If the court finds that a judgment altering the marital status of parties is appropriate, the court shall render its judgment in the form prescribed by rule 1287.~~

Rule 1244 repealed effective January 1, 2003 adopted effective January 1, 1970; amended effective July 1, 1985.

~~**Rule 1245. Request for final judgment**~~

~~In any proceeding for dissolution of marriage in which an interlocutory judgment of divorce was entered prior to January 1, 1970, or in which an interlocutory judgment of dissolution is entered after January 1, 1970, and prior to July 1, 1984, the party applying for a final judgment of dissolution shall submit to the court a Request and Declaration for Final Judgment in the form prescribed by rule 1288. The judgment of dissolution shall be in the form prescribed by rule 1287.~~

Rule 1245 repealed effective January 1, 2003; adopted effective January 1, 1970; amended effective July 1, 1984. The repealed rule related to requests for final judgment.

Rule ~~1247~~5.134. Notice of entry of judgment

(a) Notwithstanding Code of Civil Procedure section 664.5, the clerk ~~shall~~must give notice of entry of judgment, using form FL-190, *Notice of Entry of Judgment*, to the attorney for each party or to the party if unrepresented, of the following:

(1) A judgment of legal separation;

(2) ~~a~~A ~~final~~ judgment of dissolution;

(3) ~~a~~A judgment of nullity~~, or~~;

(4) A judgment establishing parental relationship ~~in the form prescribed by rule 1290~~(on form FL-190) ~~to the attorney for each party, or to the party if unrepresented.~~; or

(5) A judgment regarding custody or support.

(Subd (a) amended effective January 1, 2003.)

(b) This rule ~~shall~~ apply~~y~~ies to ~~district attorney support~~local child support agency proceedings except that the notice of entry of judgment ~~shall~~must be ~~in the form prescribed by rule 1299.16.~~on form FL-635, *Notice of Entry of Judgment and Proof of Service by Mail*.

(Subd (b) amended effective January 1, 2003.)

Rule 5.134 amended and renumbered effective January 1, 2003; adopted as rule 1247 effective January 1, 1970; previously amended effective January 1, 1972, January 1, 1982, and January 1, 1999.

Rule ~~1248~~5.136. Completion of notice of entry of judgment

(a) **[Required attachments]** Every person who submits a judgment for signature by the court ~~shall~~must submit:

(1) ~~s~~Stamped envelopes addressed to the parties; and. ~~In support proceedings initiated by the district attorney local child support agency an envelope addressed to the district attorney local child support agency need not be submitted.~~

(2) ~~a~~An original and ~~sufficient~~at least two additional copies ~~for each party of~~ the *Notice of Entry of Judgment*~~of a notice of entry of judgment~~ (form FL-190) ~~in the form prescribed by rule 1290~~

(Subd (a) amended effective January 1, 2003.)

(b) **[Fully completed]** ~~The Notice of Entry of Judgment form~~ Form FL-190 must be fully completed except for the designation of the date entered, the date of mailing, and signatures. ~~, and~~ It ~~shall~~ must specify in the certificate of mailing the place where notices have been given to the other party.

(Subd (b) amended effective January 1, 2003.)

(c) **[Address of respondent or defendant]** If there has been no appearance by the other party, the address stated in the affidavit of mailing in part 3 ~~of the request to enter default, which~~of the *Request to Enter Default* (form FL-165) ~~shall~~ must be the party's last known address and must be used for mailing form FL-190 to that party. In support proceedings initiated by the ~~district attorney~~ local child support agency an envelope addressed to the ~~district attorney~~ child support agency need not be submitted. If service was by publication and the address of respondent or defendant is unknown, those facts ~~shall~~must be stated in place of the required address.

(Subd (c) amended effective January 1, 2003.)

(d) **[Consequences of failure to comply]** Failure to complete the form or to submit the envelopes ~~shall be~~ is cause for refusal to sign the judgment until compliance with the requirements of this rule.

(Subd (d) amended effective January 1, 2003.)

(e) **[Application to local child support agencies]** This rule ~~shall~~ apply~~y~~ies to ~~district attorney~~local child support agency proceedings filed under the ~~Welfare and Institutions~~Family Code except that:

(1) ~~t~~The ~~district attorney~~ local child support agency ~~shall~~must use ~~the~~ form ~~prescribed by rule 1299.16~~FL-635, *Notice of Entry of Judgment and Proof of Service by Mail*;

(2) The ~~district attorney~~local child support agency may specify in the certificate of mailing that the address where the notice of entry of judgment was mailed is on file with the ~~district attorney~~local child support agency; and

(3) An envelope addressed to the local child support agency need not be submitted.

(Subd (e) amended effective January 1, 2003.)

Rule 5.136 amended and renumbered effective January 1, 2003;adopted as rule 1248 effective January 1, 1970; previously amended effective January 1, 1972, January 1, 1980, July 1, 1982, and January 1, 1999.

Rule ~~1249~~5.140. Implied procedures

In the exercise of the court's jurisdiction ~~pursuant to~~ under the Family Code, if the course of proceeding is not specifically indicated by statute or these rules, any suitable process or mode of proceeding may be adopted by the court ~~which~~ that ~~appears conformable to~~is consistent with the spirit of the Family Code and these rules.

Rule 5.140 amended and renumbered effective January 1, 2003; adopted as rule 1249 effective January 1, 1970; previously amended effective January 1, 1994.

CHAPTER ~~2.5~~ 3. Joinder of Parties

Title Five, Special Rules for Trial Courts—Division I, Rules Pertainint to Proceedings Involving Children and Families—Division Ia, Family Law Rules—Chapter 3, Joinder of Parties; renumbered effective January 1, 2003; adopted as Chapter 2.5 effective January 1, 1970.

Rule ~~1250~~5.150. Joinder of persons claiming interest

Notwithstanding any other rule in this division, a person who claims or controls an interest subject to disposition in the proceeding may be joined as a party to the proceeding only as provided in this chapter. Except as otherwise provided in this chapter, all provisions of law relating to joinder of parties in civil actions generally apply to the joinder of a person as a party to the proceeding.

Rule 5.150 renumbered effective January 1, 2003; adopted as rule 1250 effective November 23, 1970; amended effective January 1, 1978.

Rule ~~1251~~5.152. "Claimant" defined

As used in this chapter, "claimant" means a person joined or sought or seeking to be joined as a party to the proceeding.

Rule 5.152 renumbered effective January 1, 2003; adopted as rule 1251 effective November 23, 1970; amended effective January 1, 1972.

Rule ~~1252~~5.154. Persons who may seek joinder

(a) The petitioner or the respondent may apply to the court for an order joining a person as a party to the proceeding who has or claims custody or physical control of any of the minor children of the marriage or visitation rights with respect to such children or who has in his or her possession or control or claims to own any property subject to the jurisdiction of the court in the proceeding.

(Subd (a) amended effective January 1, 2003.)

(b) A person who has or claims custody or physical control of any of the minor children of the marriage or visitation rights with respect to such children may apply to the court for an order joining him or her as a party to the proceeding.

(Subd (b) amended effective January 1, 2003.)

(c) A person served with an order temporarily restraining the use of property in his or her possession or control or which he or she claims to own, or affecting the custody of minor children of the marriage or visitation rights with respect to such children, may apply to the court for an order joining him or her as a party to the proceeding.

(Subd (c) amended effective January 1, 2003.)

Rule 5.154 amended and renumbered effective January 1, 2003; adopted as rule 1252 effective November 23, 1970; previously amended effective July 1, 1975.

Rule ~~1253~~5.156. Form of joinder application

(a) **~~[Method of joinder and hearing date]~~** ~~An employee pension benefit plan shall be joined as provided in Article 1 (commencing with Section 2060) of Chapter 6 of Part 1 of Division 6 of the Family Code and rule 1256.~~ All ~~other~~ applications for joinder other than for an employee pension benefit plan ~~shall~~must be made by ~~service~~ serving and filing a ~~notice of motion that specifies a~~ form FL-371, *Notice of Motion and Declaration for Joinder*. The hearing date ~~not more than~~must be less than 30 days from the date of filing the notice. The ~~application~~completed form ~~shall~~must state with particularity the claimant's interest in the proceeding and the relief sought by the applicant, and it ~~shall~~must be accompanied by an appropriate pleading setting forth the claim as if it were asserted in a separate action or proceeding.

(Subd (a) amended effective January 1, 2003; previously amended January 1, 1972, January 1, 1978, january 1, 1979, January 1, 1994, and January 1, 2001.)

(b) **~~[Form specified]~~** ~~Every application for joinder, except for joinder of an employee pension benefit plan, and every response thereto, order for joinder, and summons issued thereon shall be in the form prescribed by rules 1291, 1291.10, 1291.20, and 1291.40.~~ A blank copy of form FL-373, Responsive Declaration to Motion for Joinder and Consent Order for Joinder must be served with the Notice of Motion and accompanying pleading.

(Subd (b) amended effective January 1, 2003; adopted effective January 21, 1972; previously amended January 1, 1978, Janury 1, 1979, July 1, 1985, and Janury 1, 2001.)

Rule 5.156 amended and renumbered effective January 1, 2003; adopted as rule 1253 effective November 23, 1970; previously amended effective January 1, 1972, January 1, 1978, January 1, 1979, July 1, 1985, January 1, 1994, and January 1, 2001.

Rule ~~1254~~5.158. Determination on joinder

(a) [Mandatory joinder] The court ~~shall~~must order joined as a party to the proceeding any person the court discovers has physical custody or claims custody or visitation rights with respect to any minor child of the marriage.

(Subd (a) amended effective January 1, 2003.)

(b) [Permissive joinder] The court may order that a person be joined as a party to the proceeding if the court finds that it would be appropriate to determine the particular issue in the proceeding and that the person to be joined as a party is either indispensable to a determination of that issue or necessary to the enforcement of any judgment rendered on that issue.

In determining whether it is appropriate to determine the particular issue in the proceeding, the court ~~shall~~must consider its effect upon the proceeding, including:

(1) ~~w~~Whether the determination of that issue will unduly delay the disposition of the proceeding;

(2) ~~w~~Whether other parties would need to be joined to render an effective judgment between the parties;

(3) ~~w~~Whether the determination of that issue will confuse other issues in the proceeding; and

(4) ~~w~~Whether the joinder of a party to determine the particular issue will complicate, delay, or otherwise interfere with the effective disposition of the proceeding.

(Subd (b) amended and relettered effective January 1, 2003; adopted as part of subd (a) effective November 28, 1970.)

~~(b)~~(c)[Procedure upon joinder] If the court orders that a person be joined as a party to the proceeding ~~pursuant to~~ under subdivision (a) of rule ~~1252~~5.254, the court ~~shall~~must direct that a~~n appropriate~~ summons be issued on form FL-375 and that the claimant be served with a copy of ~~the application for joinder~~form FL-371, the pleading attached thereto, the order of joinder, and the summons. The claimant has 30 days after service within which to file an appropriate response.

(Subd (c) amended and relettered effective January 1, 2003; adopted as subd (b) effective November 23, 1970.)

Rule 5.158 amended and renumbered effective January 1, 2003; adopted as rule 1254 effective November 23, 1970; previously amended effective July 1, 1975.

Rule ~~1255~~5.160. Pleading rules applicable

Except as otherwise provided in this chapter or by the court in which the proceeding is pending, the law applicable to civil actions generally ~~shall~~ governs all pleadings, motions, and other matters pertaining to that portion of the proceeding as to which a claimant has been joined as a party to the proceeding in the same manner as if a separate action or proceeding not subject to these rules had been filed.

Rule 5.160 amended and renumbered effective January 1, 2003; adopted as rule 1255 effective November 23, 1970.

Rule ~~1256~~5.162. Joinder of employee pension benefit plan

(a) Every request for joinder of employee pension benefit plan and order and every pleading on joinder ~~shall~~must ~~be in the form prescribed by rules 1291.15 and 1291.35~~be submitted on forms FL-372 and FL-370.

(Subd (a) amended effective January 1, 2003.)

(b) Every summons issued ~~thereon~~on the joinder of employee pension benefit plan ~~shall~~must be ~~in the form prescribed by rule 1291.40~~on form FL-375.

(Subd (b) amended effective January 1, 2003.)

(c) Every notice of appearance of employee pension benefit plan and responsive pleading file ~~pursuant to~~under Family Code section 2063(b) ~~shall~~must be ~~in the form prescribed by rule 1291.25.~~given on form FL-374.

(Subd (c) amended effective January 1, 2003.)

Rule 5.162 amended and renumbered effective Janury 1, 2003; adopted as rule1256 effectiove January 1, 1979; previously amended effective january 1, 1994.

CHAPTER ~~3.2~~4. Bifurcation and Appeals

Title Five, Special Rules for Trial Courts—Division I, Rules Pertaining to Proceedings Involving Children and Families—Division Ia, Family Law Rules—Chapter 4, Bifurcation and Appeals; renumbered effective January 1, 2003; adopted as chapter 3.2 effective July 1, 1989.

Rule ~~1269~~5.175. Bifurcation of issues

(a) [Bifurcation of issues] On noticed motion of a party, the stipulation of the parties, or its own motion, the court may bifurcate one or more issues to be tried separately before other issues are tried. The motion ~~shall~~must be heard not later than the trial-setting conference.

(Subd (a) amended effective January 1, 2003; previously amended January 1, 1994.)

(b) [Notice by clerk] The clerk ~~shall~~must mail copies of the order deciding the bifurcated issue and any statement of decision under rule 232.5 to the parties within 10 days of their filing and must file a certificate of mailing.

(Subd (b) amended and relettered effective January 1, 2003;adopted as part of subd (a) effective July 1, 1989; previously amended January 1, 1994.)

(~~b~~c) [When to bifurcate] The court may try separately one or more issues before trial of the other issues if resolution of the bifurcated issue is likely to simplify the determination of the other issues. Issues that may~~, in some cases,~~ be appropriate to try separately in advance include:

(1) ~~v~~Validity of a postnuptial or premarital agreement;

(2) ~~d~~Date of separation;

(3) ~~d~~Date to use for valuation of assets;

(4) ~~w~~Whether property is separate or community;

(5) ~~h~~How to apportion increase in value of a business; or

(6) ~~e~~Existence or value of business or professional goodwill.

(Subd (c) amended and relettered effective January 1, 2003; adopted as subd (b) effective July 1, 1989.)

Rule 5.175 amended and renumbered effective January 1, 2003; adopted as rule 1269 effective July 1, 1989; previously amended effective January 1, 1994.

Rule ~~1269.5~~5.180. Interlocutory appeals

(a) [Applicability] This rule does not apply to appeals from the court's termination of marital status as a separate issue, ~~n~~or to appeals from other orders that are separately appealable.

(Subd (a) amended effective January 1, 2003; adopted as subd (b) effective July 1, 1989.

(b) [Certificate of probable cause for appeal]

(1) The order deciding the bifurcated issue may~~, at the judge's discretion,~~ include an order certifying that there is probable cause for immediate appellate review of the issue.

(2) If it was not in the order, within 10 days after the clerk mails the order deciding the bifurcated issue, a party may notice a motion ~~requesting~~ asking the court to certify that there is probable cause for immediate appellate review of the order. The motion must be heard within 30 days after the order deciding the bifurcated issue is mailed.

(3) The clerk must promptly mail notice of the decision on the motion to the parties. If the motion is not determined within 40 days after mailing of the order on the bifurcated issue, it is deemed granted on the grounds stated in the motion.

(Subd (b) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(c) [Content and effect of certificate]

(1) A certificate of probable cause must state, in general terms, the reason immediate appellate review is desireable, such as a statement that final resolution of the issue:

(A) Is likely to lead to settlement of the entire case;

(B) Will simplify remaining issues;

(C) Will conserve the courts' resources; or

(D) Will benefit the well-being of a child of the marriage or the parties.

(2) If a certificate is granted, trial of the remaining issues may be stayed. If trial of the remaining issues is stayed, unless otherwise ordered by the

trial court on noticed motion, further discovery must be stayed while the certification is pending. These stays terminate upon the expiration of time for filing a motion to appeal if none is filed, or upon the Court of Appeal denying all motions to appeal, or upon the Court of Appeal decision becoming final.

(Subd (c) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(d) [Motion to appeal]

(1) If the certificate is granted, a party may within 15 days after the mailing of the notice of the order granting it serve and file in the Court of Appeal a motion to appeal the decision on the bifurcated issue. On ex parte application served and filed within 15 days, the Court of Appeal or the trial court may extend the time for filing the motion to appeal by not more than an additional 20 days.

(2) The motion must contain:

(A) A brief statement of the facts necessary to an understanding of the issue;

(B) A statement of the issue; and

(C) A statement of why, in the context of the case, an immediate appeal is desirable.

(3) The motion must include or have ~~annexed~~attached

(A) A copy of the decision of the trial court on the bifurcated issue;

(B) Any statement of decision;

(C) The certification of the appeal; and

(D) A sufficient partial record to enable the Court of Appeal to determine whether to grant the motion.

(4) A summary of evidence and oral proceedings, if relevant, supported by a declaration of counsel may be used when a transcript is not available.

(5) The motion must be accompanied by the filing fee for an appeal under rule 1(c) and Government Code sections 68926 and 68926.1.

(6) A copy of the motion must be served on the trial court.

(Subd (d) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(e) [Proceedings to determine motion]

(1) Witin 10 days after service of the motion, an adverse party may serve and file an opposition to it.

(2) The motion to appeal and any opposition will be submitted without oral argument, unless otherwise ordered.

(3) The motion to appeal is deemed granted unless it is denied within 30 days from thedate of filing the opposition or the las document requested by the court, whichever is later.

(4) Denial of a motion to appeal is final forthwith andis not subject ot rehearing. A party aggrieved by the denial of the motion may petition for review by the Supreme Court

(Subd (e) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(f) [Proceedings if motion to appeal is granted]

(1) If the motion to appeal is granted, the moving party is deemed an appellant, and the rules governing other civil appeals apply except as provided in this rule.

(2) The partial record filed with the motion will be considered the record for the appeal unless, within 10 days from the date notice of the grant of the motion is mailed, a party notifies the Court of Appeal of additional portions of the record that are needed for a full consideration of the appeal.

(3) If a party notifies the court of the need for an additional record, the additional material must be secured from the trial court by augmentation under rule 12, unless it appears to the Court of Appeal that some of the material is not needed.

(4) Briefs must be filed ~~pursuant to~~ under a schedule set for the matter by the Court of Appeal.

(Subd (f) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(g) [Review by writ or appeal] The trial court's denial of a certification motion under (b) does not preclude review of the decision on the bifurcated issue by extraordinary writ

(Subd (g) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(f) ***

Rule 5.180 amended and renumbered effective January 1, 2003; adopted as rule 1269.5 effective July 1, 1989; previously amended effective January 1, 1994 and January 1, 2002.

CHAPTER ~~2.6~~5. Child Custody

Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter 5, Child Custody; renumbered effective January 1, 2003; adopted as Chapter 2.6 effective January 1, 1993; previously amended effective January 1, 1999.

Rule ~~1257.1~~5.210. ~~Uniform standards of practice for c~~Court-connected child custody mediation

(a)–(c) ***

(d) [Responsibility for mediation services]

(1) Each court ~~shall~~must ensure that:

(A) Mediators are impartial, competent, and uphold the standards of practice contained in this rule of court.

(B) Mediation services and case management procedures implement state law and allow sufficient time for parties to receive orientation, participate fully in mediation, and develop a comprehensive parenting plan without unduly compromising each party's right to due process and a timely resolution of the issues.

(C) Mediation services demonstrate accountability by:

(i) Providing for acceptance of and response to complaints about a mediator's performance;

(ii) Participating in statewide data collection efforts; and

(iii) Disclosing the use of interns to provide mediation services.

(D) The mediation program uses a detailed intake process that screens for, and informs the mediator about, any restraining orders or safety-related issues affecting any party or child named in the proceedings to allow compliance with relevant law or court rules before mediation begins.

(E) Whenever possible, mediation is available from bilingual mediators or other interpreter services that meet the requirements of Evidence Code sections 754(f) and 755(a) and section 18 of the California Standards of Judicial Administration.

(F) Mediation services protect, in accordance with existing law, party confidentiality~~,~~ in:

(i) Storage and disposal of records and any personal information accumulated during the mediation process;

(ii) Interagency coordination or cooperation regarding a particular family or case; and

(iii) Management of child abuse reports and related documents.

(G) Mediation services provide a written description of limitations on the confidentiality of the process.

(H) Within one year of the adoption of this rule, the court adopts a local court rule regarding ex parte communications.

(2) Each court-connected mediator ~~shall~~must:

(A) Maintain an overriding concern to integrate the child's best interest within the family context;

(B) Inform the parties and any counsel for a minor child if the mediator will make a recommendation to the court as provided under Family Code section 3184;

(C) Use reasonable efforts and consider safety issues to:

(i) Facilitate the family's transition and reduce acrimony by helping the parties improve their communication skills, focus on the child's needs and areas of stability, identify the family's strengths, and locate counseling or other services;

(ii) Develop a comprehensive parenting agreement that addresses each child's current and future developmental needs; and

(iii) Control for potential power imbalances between the parties during mediation.

(Subd (d) amended effective January 1, 2003; previously amended effective Janaury 1, 2002.)

(e) [Mediation process] All court-connected mediation processes ~~shall~~must be conducted in accordance with state law and include:

(1) Review of the intake form and court file, if available, before the start of mediation;

(2) Oral or written orientation or parent education that facilitates the parties' informed and self-determined decision making about:

(A) The types of disputed issues generally discussed in mediation and the range of possible outcomes from the mediation process;

(B) The mediation process, including the mediator's role; the circumstances that may lead the mediator to make a particular recommendation to the court; limitations on the confidentiality of the process; and access to information communicated by the parties or included in the mediation file;

(C) How to make best use of information drawn from current research and professional experience to facilitate the mediation process, parties' communication, and co-parenting relationship; and

(D) How to address each child's current and future developmental needs;

(3) Interviews with children at the mediator's discretion and consistent with Family Code section 3180(a). The mediator may interview the child alone or together with other interested parties, including stepparents, siblings, new or step-siblings, or other family members significant to the child. If interviewing a child, the mediator ~~shall~~must:

(A) Inform the child in an age-appropriate way of the mediator's obligation to disclose suspected child abuse and neglect and the local policies concerning disclosure of the child's statements to the court; and

(B) With parental consent, coordinate interview and information exchange among agency or private professionals to reduce the number of interviews a child might experience;

(4) Assistance to the parties, without undue influence or personal bias, in developing a parenting plan that protects the health, safety, welfare, and best interest of the child and that optimizes the child's relationship with each party by including, as appropriate, provisions for supervised visitation in high-risk cases; designations for legal and physical custody; a description of each party's authority to make decisions that affect the child; language that minimizes legal, mental health, or other jargon; and a detailed schedule of the time a child is to spend with each party, including vacations, holidays, and special occasions, and times when the child's contact with a party may be interrupted;

(5) Extension of time to allow the parties to gather additional information if the mediator determines that such information will help the discussion proceed in a fair and orderly manner or facilitate an agreement;

(6) Suspension or discontinuance of mediation if allegations of child abuse or neglect are made until a designated agency performs an investigation and reports a case determination to the mediator;

(7) Termination of mediation if the mediator believes that he or she is unable to achieve a balanced discussion between the parties;

(8) Conclusion of mediation with:

(A) A written parenting plan ~~that summarizes~~ summarizing the parties' agreement or mediator's recommendation that is given to counsel or the parties before the recommendation is presented to the court; and

(B) A written or oral description of any subsequent case management or court procedures for resolving one or more outstanding custody or visitation issues, including instructions for obtaining temporary orders; and

(9) Return to mediation to resolve future custody or visitation disputes.

(Subd (e) amended effective January 1, 2003.)

(f) [Training, continuing education, and experience requirements for mediator, mediation supervisor, and family court services director] As specified in Family Code sections 1815 and 1816:

(1) All mediators, mediation supervisors, and family court service program directors must:

(A) Complete a minimum of 40 hours of custody and visitation mediation training within the first six months of initial employment as a court-connected mediator;

(B) Attend related continuing education programs, conferences, and workshops; and

(C) Participate in performance supervision and peer review.

(2) Each family court services director and mediation supervisor ~~shall~~must attend at least 32 hours of additional training each calendar year. This requirement may be satisfied in part by the domestic violence training required by Family Code section 1816.

(Subd (f) amended effective January 1, 2003.)

(g) [Ethics] Mediation ~~shall~~must be conducted in an atmosphere that encourages trust in the process and a perception of fairness. To that end, mediators ~~shall~~must:

(1) Meet the practice and ethical standards of the Code of Ethics for the Court Employees of California and of related law;

(2) Maintain objectivity, provide and gather balanced information for both parties, and control for bias;

(3) Protect the confidentiality of the parties and the child in making any collateral contacts and not release information about the case to any individual except as authorized by the court or statute;

(4) Not offer any recommendations about a party unless that party has been evaluated directly or in consultation with another qualified neutral professional;

(5) Consider the health, safety, welfare, and best interest of the child in all phases of the process, including interviews with parents, extended family members, counsel for the child, and other interested parties or collateral contacts;

(6) Strive to maintain the confidential relationship between the child who is the subject of an evaluation and his or her treating psychotherapist;

(7) Operate within the limits of his or her training and experience and disclose any limitations or bias that would affect his or her ability to conduct the mediation;

(8) Not require children to state a custodial preference;

(9) Not disclose any recommendations to the parties, their attorneys, or the attorney for the child before having gathered the information necessary to support the conclusion;

(10) Disclose to the court, parties, attorneys for the parties, and attorney for the child conflicts of interest or dual relationships and not accept any appointment except by court order or the parties' stipulation;

(11) Be sensitive to the parties' socioeconomic, gender, race, ethnicity, cultural values, religious, family structures, and developmental characteristics; and

(12) Disclose any actual or potential conflicts of interest. In the event of a conflict of interest, the mediator ~~shall~~must suspend mediation and meet and confer in an effort to resolve the conflict of interest to the satisfaction of all parties or according to local court rules. The court may order mediation to continue with another mediator or offer the parties alternatives. The mediator cannot continue unless the parties agree in writing to continue mediation despite the disclosed conflict of interest.

(Subd (g) amended effective January 1, 2003.)

Rule 5.210 amended and renumbered effective January 1, 2003; adopted as rule 1257.1 effective July 1, 2001; previously amended effective January 1, 2002.

Rule ~~1257.2~~5.215. Domestic violence protocol for Family Court Services

(a)–(b) ***

(c) [Definitions]

(1) "Domestic violence" is used as defined in Family Code sections 6203 and 6211.

(2) "Protective order" is used as defined in Family Code section 6215, "Emergency protective order"; Family Code section 6218, "Protective order"; and Penal Code section 136.2 (orders by court). "Domestic violence restraining order" is synonymous with "protective order."

(3) "Mediation" refers to proceedings described in Family Code section 3161.

(4) "Evaluation" and "investigation" are synonymous terms.

(5) "Family Court Services" refers to court-connected child custody services and child custody mediation made available by superior courts ~~pursuant to~~ under Family Code section 3160.

(6) "Family Court Services staff" refers to contract and employee mediators, evaluators, investigators, and counselors who provide services on behalf of Family Court Services.

(7) "Differential domestic violence assessment" is a process used to assess the nature of any domestic violence issues in the family so that Family Court Services may provide services in such a way as to protect any victim of domestic violence from intimidation, provide services for perpetrators, and correct for power imbalances created by past and prospective violence.

(Subd (c) amended effective January 1, 2003.)

(d) [Family Court Services: Description and duties]

(1) *(Local protocols)* Family Court Services must handle domestic violence cases in accordance with pertinent state laws and all applicable rules of court and must develop local protocols in accordance with this rule.

(2) *(Family Court Services duties relative to domestic violence cases)* Family Court Services is a court-connected service that must:

(A) Identify cases in Family Court Services that involve domestic violence, and code Family Court Services files to identify such cases;

(B) Make reasonable efforts to ensure the safety of victims, children, and other parties when they are participating in services provided by Family Court Services;

(C) Make appropriate referrals; and

(D) Conduct a differential domestic violence assessment in domestic violence cases and offer appropriate services as available, such as child custody evaluation, parent education, parent orientation, supervised visitation, child custody mediation, relevant education programs for children, and other services as determined by each superior court.

(3) *(No negotiation of violence)* Family Court Services staff must not negotiate with the parties about using violence with each other, whether either party should or should not obtain or dismiss a restraining order, or whether either party should cooperate with criminal prosecution.

(4) *(Domestic violence restraining orders)* Notwithstanding the above, to the extent permitted under Family Code section 3183(c), in appropriate cases, Family Court Services staff may recommend that restraining orders be issued, pending determination of the controversy, to protect the well-being of the child involved in the controversy.

(5) *(Providing information)* Family Court Services staff must provide information to families accessing their services about the effects of domestic violence on adults and children. Family Court Services programs, including but not limited to orientation programs, must provide information and materials that describe Family Court Services policy and procedures with respect to domestic violence. Where possible, the videotapes provided should be closed-captioned.

(6) *(Separate sessions)* In a Family Court Services case in which there has been a history of domestic violence between the parties or in which a protective order as defined in Family Code section 6218 is in effect, at the request of the party who is alleging domestic violence in a written declaration under penalty of perjury or who is protected by the order, the Family Court Services mediator, counselor, evaluator, or investigator must meet with the parties separately and at separate times. When

appropriate, arrangements for separate sessions must protect the confidentiality of each party's times of arrival, departure, and meeting with Family Court Services. Family Court Services must provide information to the parties regarding their options for separate sessions ~~pursuant to~~ under Family Code sections 3113 and 3181. If domestic violence is discovered after mediation or evaluation has begun, the Family Court Services staff member assigned to the case must confer with the parties separately regarding safety-related issues and the option of continuing in separate sessions at separate times. Family Court Services staff, including support staff, must not respond to a party's request for separate sessions as though it were evidence of his or her lack of cooperation with the Family Court Services process.

(7) *(Referrals)* Family Court Services staff, where applicable, must refer family members to appropriate services. Such services may include but are not limited to programs for perpetrators, counseling and education for children, parent education, services for victims, and legal resources, such as family law facilitators.

(8) *(Community resources)* Family Court Services should maintain a liaison with community-based services offering domestic violence prevention assistance and support so that referrals can be made based on an understanding of available services and service providers.

(Subd (d) amended effective January 1, 2003.)

(e)-(g) ***

(h) [Support persons]

(1) *(Support person)* Family Court Services staff must advise the party protected by a protective order of the right to have a support person attend any mediation orientation or mediation sessions, including separate mediation sessions, ~~pursuant to~~ under Family Code section 6303.

(2) *(Excluding support person)* A Family Court Services staff person may exclude a domestic violence support person from a mediation session if the support person participates in the mediation session or acts as an advocate or the presence of a particular support person disrupts the process of mediation. The presence of the support person does not waive the confidentiality of the process, and the support person is bound by the confidentiality of the process.

(Subd (h) amended effective January 1, 2003.)

(i) [Accessibility of services] To effectively address domestic violence cases, the court must make reasonable efforts to ensure the availability of safe and accessible services that include, but are not limited to:

(1) (Language accessibility) Whenever possible, Family Court Services programs should be conducted in the languages of all participants, including those who are deaf. When the participants use only a language other than spoken English and the Family Court Services staff person does not speak their language, an interpreter—certified whenever possible—should be assigned to interpret at the session. A minor child of the parties must not be used as an interpreter. An adult family member may act as an interpreter only when appropriate interpreters are not available. When a family member is acting as an interpreter, Family Court Services staff should attempt to establish, away from the presence of the potential interpreter and the other party, whether the person alleging domestic violence is comfortable with having that family member interpret for the parties.

(2) *(Facilities design)* To minimize contact between the parties and promote safety in domestic violence cases, courts must give consideration to the design of facilities. Such considerations must include but are not limited to the following: separate and secure waiting areas, separate conference rooms for parent education and mediation, signs providing directions to Family Court Services, and secure parking for users of Family Court Services.

(Subd (i) amended effective January 1, 2003.)

(j) [Training and education]

(1) *(Training, continuing education, and experience requirements for Family Court Services staff)* All Family Court Services staff must participate in programs of continuing instruction in issues related to domestic violence, including child abuse, as may be arranged for and provided to them, ~~pursuant to~~ under Family Code section 1816(a).

(2) *(Advanced domestic violence training)* Family Court Services staff must complete 16 hours of advanced domestic violence training within the first 12 months of employment and 4 hours of domestic violence update training each year thereafter. The content of the 16 hours of advanced domestic violence training and 4 hours of domestic violence update

training must be the same as that required for court-appointed child custody investigators and evaluators as stated in rule ~~1257.7~~5.230. Those staff members employed by Family Court Services on January 1, 2002, who have not already fulfilled the requirements of rule ~~1257.7~~5.230 must participate in the 16-hour training within one year of the rule's effective date.

(3) *(Support staff)* Family Court Services programs should, where possible, enable support staff, including but not limited to clerical staff, to participate in training on domestic violence and in handling domestic violence cases appropriately.

(Subd (j) amended effective January 1, 2003;.)

Rule 5.215 amended and renumbered effective January 1, 2003; adopted as rule 1257.2 effective January 1, 2002.

Rule ~~1257.3~~5.220. ~~Uniform standards of practice for c~~Court-ordered child custody evaluations

(a) ***

(b) [Purpose] Courts order child custody evaluations, investigations, and assessments to assist them in determining the health, safety, welfare, and best interest of children with regard to disputed custody and visitation issues. This rule ~~affects~~ governs both court-connected and private child custody evaluators appointed under Family Code section 3111, Evidence Code section 730, or Code of Civil Procedure section 2032.

(Subd (b) amended effective January 1, 2003.)

(c) [Definitions] For purposes of this rule:

(1) A "child custody evaluator" is a court-appointed investigator as defined in Family Code section 3110.

(2) The "best interest of the child" is as defined in Family Code section 3011.

(3) A "child custody evaluation" is an expert investigation and analysis of the health, safety, welfare, and best interest of children with regard to disputed custody and visitation issues.

(4) A “full evaluation, investigation, or assessment” is a comprehensive examination of the health, safety, welfare, and best interest of the child.

(5) A “partial evaluation, investigation, or assessment” is an examination of the health, safety, welfare, and best interest of the child that is limited by court order in either time or scope.

(6) “Evaluation,” “investigation,” and “assessment” are synonymous ~~terms~~.

(Subd (c) amended effective January 1, 2003.)

(d) [Responsibility for evaluation services]

(1) Each court ~~shall~~must:

(A) Adopt local rule~~s~~ within one year of this rule’s effective date to:

(i) Implement this rule of court;

(ii) Determine whether a peremptory challenge to a court-appointed evaluator is allowed and when the challenge must be exercised. The rules ~~shall~~must specify whether a family court services staff member, other county employee, a mental health professional, or all of them may be challenged;

(iii) Allow evaluators to petition the court to withdraw from a case;

(iv) Provide for acceptance of and response to complaints about an evaluator’s performance; and

(v) Address ex parte communications.

(B) Give the evaluator, before the evaluation begins, a copy of the court order that specifies:

(i) The appointment of the evaluator under Evidence Code section 730, Family Code section 3110, or Code of Civil Procedure 2032; and

(ii) The purpose and scope of the evaluation.

(C) Require child custody evaluators to adhere to the requirements of this rule.

(D) Determine and allocate between the parties any fees or costs of the evaluation.

(2) The child custody evaluator ~~shall~~must:

(A) Consider the health, safety, welfare, and best interest of the child within the scope and purpose of the evaluation as defined by the court order;

(B) Strive to minimize the potential for psychological trauma to children during the evaluation process; and

(C) Include in the initial meeting with each child an age-appropriate explanation of the evaluation process, including limitations on the confidentiality of the process.

(Subd (d) amended effective January 1, 2003.)

(e) [Scope of evaluations] All evaluations ~~shall~~must include:

(1) A written explanation of the process that clearly describes the:

(A) Purpose of the evaluation;

(B) Procedures used and the time required to gather and assess information and, if psychological tests will be used, the role of the results in confirming or questioning other information or previous conclusions;

(C) Scope and distribution of the evaluation report;

(D) Limitations on the confidentiality of the process; and

(E) Cost and payment responsibility for the evaluation.

(2) Data collection and analysis that allow the evaluator to observe and consider each party in comparable ways and to substantiate (from multiple sources when possible) interpretations and conclusions regarding each child's developmental needs; the quality of attachment to each parent and that parent's social environment; and reactions to the separation, divorce, or parental conflict. This process may include but is not limited to:

(A) Reviewing pertinent documents related to custody, including local police records;

(B) Observing parent-child interaction (unless contraindicated to protect the best interest of the child);

(C) Interviewing parents conjointly, individually, or both conjointly and individually (unless contraindicated in cases involving domestic violence), to assess:

(i) Capacity for setting age-appropriate limits and for understanding and responding to the child's needs;

(ii) History of involvement in caring for the child;

(iii) Methods for working toward resolution of the child custody conflict;

(iv) History of child abuse, domestic violence, substance abuse, and psychiatric illness; and

(v) Psychological and social functioning;

(D) Conducting age-appropriate interviews and observation with the children, both parents, stepparents, step- and half-siblings conjointly, separately, or both conjointly and separately, unless contraindicated to protect the best interest of the child;

(E) Collecting relevant corroborating information or documents as permitted by law; and

(F) Consulting with other experts to develop information that is beyond the evaluator's scope of practice or area of expertise.

(3) A written or oral presentation of findings that is consistent with Family Code section 3111 or Evidence Code section 730. In any presentation of findings, the evaluator ~~shall~~must:

(A) Summarize the data-gathering procedures, information sources, and time spent, and present all relevant information, including information that does not support the conclusions reached;

(B) Describe any limitations in the evaluation that result from unobtainable information, failure of a party to cooperate, or the circumstances of particular interviews;

(C) Only make a custody or visitation recommendation for a party who has been evaluated. This requirement does not preclude the evaluator from making an interim recommendation that is in the best interest of the child; and

(D) Provide clear, detailed recommendations that are consistent with the health, safety, welfare, and best interest of the child if making any recommendations to the court regarding a parenting plan.

(Subd (e) amended effective January 1, 2003.)

(f) [Cooperation with professionals in another jurisdiction] When one party resides in another jurisdiction, the custody evaluator may rely on another qualified neutral professional for assistance in gathering information. In order to ensure a thorough and comparably reliable out-of-jurisdiction evaluation, the evaluator ~~shall~~must:

(1) Make a written request that includes, as appropriate:

(A) A copy of all relevant court orders;

(B) An outline of issues to be explored;

(C) A list of the individuals who ~~shall~~must or may be contacted;

(D) A description of the necessary structure and setting for interviews;

(E) A statement as to whether a home visit is required;

(F) A request for relevant documents such as police records, school reports, or other document review; and

(G) A request that a written report be returned only to the evaluator and that no copies of the report be distributed to parties or attorneys;

(2) Provide instructions that limit the out-of-jurisdiction report to factual matters and behavioral observations rather than recommendations regarding the overall custody plan; and

(3) Attach and discuss the report provided by the professional in another jurisdiction in the evaluator's final report.

(Subd (f) amended effective January 1, 2003.)

(g) [Requirements for evaluator qualifications, training, continuing education, and experience] All child custody evaluators ~~shall~~must meet the qualifications, training, and continuing education requirements specified in Family Code sections 1815, 1816, and 3111, and rules ~~1257.7~~5.425 and 5.430.

(Subd (g) amended effective January 1, 2003; previously amended July 1, 1999.)

(h) [Ethics] In performing an evaluation, the child custody evaluator ~~shall~~must:

(1) Maintain objectivity, provide and gather balanced information for both parties, and control for bias;

(2) Protect the confidentiality of the parties and children in collateral contacts and not release information about the case to any individual except as authorized by the court or statute;

(3) Not offer any recommendations about a party unless that party has been evaluated directly or in consultation with another qualified neutral professional;

(4) Consider the health, safety, welfare, and best interest of the child in all phases of the process, including interviews with parents, extended family members, counsel for the child, and other interested parties or collateral contacts;

(5) Strive to maintain the confidential relationship between the child who is the subject of an evaluation and his or her treating psychotherapist;

(6) Operate within the limits of the evaluator's training and experience and disclose any limitations or bias that would affect the evaluator's ability to conduct the evaluation;

(7) Not pressure children to state a custodial preference;

(8) Inform the parties of the evaluator's reporting requirements, including, but not limited to, suspected child abuse and neglect and threats to harm one's self or another person;

(9) Not disclose any recommendations to the parties, their attorneys, or the attorney for the child before having gathered the information necessary to support the conclusion;

(10) Disclose to the court, parties, attorney for a party, and attorney for the child conflicts of interest or dual relationships; and not accept any appointment except by court order or the parties' stipulation; and

(11) Be sensitive to the socioeconomic, gender, race, ethnicity, cultural values, religious, family structures, and developmental characteristics of the parties.

(Subd (h) amended effective January 1, 2003.)

(i) [Cost-effective procedures for cross-examination of evaluators] Each local court ~~shall~~must develop procedures for expeditious and cost-effective cross-examination of evaluators, including, but not limited to, consideration of the following:

(1) Videoconferences;

(2) Telephone conferences;

(3) Audio or video examination; and

(4) Scheduling of appearances.

(Subd (i) amended effective January 1, 2003.)

Rule 5.220 amended and renumbered effective January 1, 2003; adopted as rule 1257.3 effective January 1, 1999; previously amended effective July 1, 1999.

Rule 5.225. Education, experience, and training standards for court-appointed child custody investigators and evaluators

(a) [Authority] This rule is adopted under article VI, section 6 of the California Constitution and Family Code sections 211 and 3110.5.

(b) [Purpose] As required by Family Code section 3110.5, this rule establishes education, experience, and training requirements for child custody evaluators who are appointed only under Family Code section 3111, Evidence Code section 730, or Code of Civil Procedure section 2032. Additional training requirements for these child custody evaluators are contained in rule 5.230.

(c) [Definitions] For purposes of this rule:

(1) A "child custody evaluator" is a court-appointed investigator as defined in Family Code section 3110.

(2) A "child custody evaluation" is an expert investigation and analysis of the health, safety, welfare, and best interest of a child with regard to disputed custody and visitation issues.

(3) A "full evaluation, investigation, or assessment" is a comprehensive examination of the health, safety, welfare, and best interest of the child.

(4) A "partial evaluation, investigation, or assessment" is an examination of the health, safety, welfare, and best interest of the child that is limited by court order in either time or scope.

(5) The terms "evaluation," "investigation," and "assessment" are synonymous.

(6) "Best interest of the child" is described in Family Code section 3011.

(d) [Requirements for evaluators' qualifications: education, experience, and training] Persons appointed as child custody evaluators must:

(1) Effective January 1, 2004, complete a total of 40 hours of initial training and education as described in subdivision (e). At least 20 of the 40 hours of education and training required by this rule must be completed by January 1, 2003;

(2) Comply with the training requirements described in rule 5.230;

(3) Fulfill the experience requirements described in subdivision (f); and

(4) Meet the continuing education, experience, and training requirements described in subdivision (g).

(e) [Education and training requirements] Only education acquired after January 1, 2000 that meets the requirements for training and education providers described in subdivision (n) meets the requirements of this rule. Ten of the hours required by this rule may be earned through self-study that is supervised by a training provider who meets the requirements described in subdivision (n). Serving as the instructor in a course meeting the requirements

described in subdivision (n) in one or more of the subjects listed in paragraphs (1) through (21) below can be substituted for completion of the requisite number of hours specified in subdivision (d) on an hour-per-hour basis, but each subject taught may be counted only once. The hours required by this rule must include, but are not limited to, all of the following subjects:

(1) The psychological and developmental needs of children, especially as those needs relate to decisions about child custody and visitation;

(2) Family dynamics, including, but not limited to, parent-child relationships, blended families, and extended family relationships;

(3) The effects of separation, divorce, domestic violence, child sexual abuse, child physical or emotional abuse or neglect, substance abuse, and interparental conflict on the psychological and developmental needs of children and adults;

(4) The assessment of child sexual abuse issues required by Family Code section 3110.5(b)(2)(A)-(F) and Family Code section 3118; local procedures for handling child sexual abuse cases; and the effect that court procedures may have on the evaluation process when there are allegations of child sexual abuse;

(5) The significance of culture and religion in the lives of the parties;

(6) Safety issues that may arise during the evaluation process and their potential effects on all participants in the evaluation;

(7) When and how to interview or assess adults, infants, and children; gather information from collateral sources; collect and assess relevant data; and recognize the limits of data sources' reliability and validity;

(8) The importance of addressing issues such as general mental health, medication use, and learning or physical disabilities;

(9) The importance of staying current with relevant literature and research;

(10) How to apply comparable interview, assessment, and testing procedures that meet generally accepted clinical, forensic, scientific, diagnostic, or medical standards to all parties;

(11) When to consult with or involve additional experts or other appropriate persons;

(12) How to inform each adult party of the purpose, nature, and method of the evaluation;

(13) How to assess parenting capacity and construct effective parenting plans;

(14) Ethical requirements associated with the child custody evaluator's professional license and rule 5.220;

(15) The legal context within which child custody and visitation issues are decided and additional legal and ethical standards to consider when serving as a child custody evaluator;

(16) The importance of understanding relevant distinctions among the roles of evaluator, mediator, and therapist;

(17) How to write reports and recommendations, where appropriate;

(18) Mandatory reporting requirements and limitations on confidentiality;

(19) How to prepare for and give court testimony;

(20) How to maintain professional neutrality and objectivity when conducting child custody evaluations;

(21) The importance of assessing the health, safety, welfare, and best interest of the child or children involved in the proceedings.

(f) [Experience requirements] Persons appointed as child custody evaluators must satisfy initial experience requirements by:

(1) Completing or supervising three court-appointed partial or full child custody evaluations including a written or an oral report between January 1, 2000, and July 1, 2003; or

(2) Conducting six child custody evaluations in consultation with another professional who meets the education, experience, and training requirements of this rule.

(g) [Continuing education and training] Effective January 1, 2004, persons appointed as child custody evaluators must annually attend 8 hours of update training covering subjects described in subdivision (e) after completing the

initial 40 hours of training. This requirement is in addition to the annual update training described in rule 5.230.

(h) [Ongoing clinical consultation] When conducting evaluations, persons appointed as child custody evaluators should, where appropriate**,** seek guidance from professionals who meet the requirements of this rule.

(i) [Court employees] Effective January 1, 2004, court-connected evaluators may conduct evaluations if they have already completed at least 20 hours of the training required in subdivision (d) of this rule and meet all of the qualifications established by this rule within 12 months after completing the 20-hour requirement. During the period in which a court-connected evaluator does not yet meet the requirements of this rule, a court-connected professional who meets the requirements of the rule must supervise the court-connected evaluator's work.

(j) [Alternative appointment criteria] If the court appoints a child custody evaluator under Family Code section 3110.5(d), the court must require that the evaluator:

(1) Possess a master's or doctoral degree in psychology, social work, marriage and family counseling, or another behavioral science substantially related to working with families; and

(2) Have completed the education, experience, and training requirements in subdivisions (e) and (g) of this rule.

(k) [Licensing requirements] On or after January 1, 2005, persons appointed as child custody evaluators must meet the criteria set forth in Family Code section 3110.5(c)(1)-(5).

(l) [Responsibility of the courts] Each court:

(1) On or before January 1, 2004, must develop local court rules to implement this rule that:

(A) Provide for acceptance of and response to complaints about an evaluator's performance, and

(B) Establish a process for informing the public about how to find qualified evaluators in that jurisdiction;

(2) Effective January 1, 2004, must use the Judicial Council form *Order Appointing Child Custody Evaluator* (FL-327) to appoint a private child custody evaluator or a court-connected evaluation service. Form FL-327 may be supplemented with local court forms;

(3) Must provide the Judicial Council with a copy of any local court forms used to implement this rule; and,

(4) As feasible and appropriate, may confer with education and training providers to develop and deliver curricula of comparable quality and relevance to child custody evaluations for both court-connected and private child custody evaluators.

(m) [Child custody evaluator] A person appointed as a child custody evaluator must:

(1) Effective January 1, 2004, complete and file with the court Judicial Council form *Declaration of Child Custody Evaluator Regarding Qualifications* (FL-326). This form must be filed no later than 10 court days after receipt of notification of the appointment and before any work on the child custody evaluation has begun, unless the person is a court-connected employee who must file annually with the court Judicial Council form *Declaration of Child Custody Evaluator Regarding Qualifications* (FL-326);

(2) At the beginning of the child custody evaluation, inform each adult party of the purpose, nature, and method of the evaluation, and provide information about the evaluator's education, experience, and training;

(3) Use interview, assessment, and testing procedures that are consistent with generally accepted clinical, forensic, scientific, diagnostic, or medical standards;

(4) Have a license in good standing if licensed at the time of appointment, except as described in Family Code section 3110.5(d);

(5) Be knowledgeable about relevant resources and service providers; and

(6) Prior to undertaking the evaluation or at the first practical moment, inform the court, counsel, and parties of possible or actual multiple roles or conflicts of interest.

(n) [Training and education providers] Eligible providers may include educational institutions, professional associations, professional continuing education groups, public or private for-profit or not-for-profit groups, court-connected groups, and the Administrative Office of the Courts. Eligible providers must:

(1) Ensure that the training instructors or consultants delivering the training and education programs either meet the requirements of this rule or are experts in the subject matter;

(2) Monitor and evaluate the quality of courses, curricula, training, instructors, and consultants;

(3) Emphasize the importance of focusing the child custody evaluation on the health, safety, welfare, and best interest of the child;

(4) Distribute a certificate of completion to each person who has attended the training. The certificate will document the number of hours of training offered, the number of hours the person attended, the dates of the training, and the name of the training provider; and

(5) Meet the approval requirements described in subdivision (o).

(o) [Eligible training] Effective July 1, 2003, eligible training and education programs must be approved by the Administrative Director of the Courts. Training and education taken between January 1, 2000, and July 1, 2003, may be applied toward the requirements of this rule if it addresses the subjects listed in subdivision (e), and is either certified for continuing education credit by a professional provider group or offered as part of a related postgraduate degree or licensing program.

Rule 5.225 adopted effective January 1, 2003.

Rule ~~1257.75~~5.230. Domestic violence training standards for court-appointed child custody investigators and evaluators

(a) ***

(b) [Purpose] Consistent with Family Code sections 3020 and 3111, the purposes of this rule are to require domestic violence training for all court-appointed persons who evaluate or investigate child custody matters and to ensure that this training reflects current research and consensus about best practices for

conducting child custody evaluations by prescribing standards that training in domestic violence ~~shall~~must meet. Effective January 1, 1998, no person ~~shall~~may be a court-appointed investigator under Family Code section 3111(d) or Evidence Code section 730 unless the person has completed domestic violence training described here and in Family Code section 1816.

(Subd (b) amended effective January 1, 2003.)

(c) ***

(d) [Mandatory training] Persons appointed as child custody investigators under Family Code section 3110 or Evidence Code section 730, and persons who are professional staff or trainees in a child custody or visitation evaluation or investigation, must complete basic training in domestic violence issues as described in Family Code section 1816 and in addition:

(1**)** **(***Advanced training*) Sixteen hours of advanced training ~~shall~~must be completed within a 12-month period. These 16 hours ~~shall~~must ~~consist of~~include:

(A) Twelve hours of instructions, as approved by the Administrative Director of the Courts, in:

(i) The appropriate structuring of the child custody evaluation process, including, but not limited to, maximizing safety for clients, evaluators, and court personnel; maintaining objectivity; providing and gathering balanced information from both parties and controlling for bias; providing for separate sessions at separate times (as specified in Family Code section 3113); and considering the impact of the evaluation report and recommendations with particular attention to the dynamics of domestic violence;

(ii) The relevant sections of local, state, and federal law or rules;

(iii) The range, availability, and applicability of domestic violence resources available to victims, including, but not limited to, battered women's shelters, specialized counseling, drug and alcohol counseling, legal advocacy, job training, parenting classes, battered immigrant victims, and welfare exceptions for domestic violence victims;

(iv) The range, availability, and applicability of domestic violence intervention available to perpetrators, including, but not limited to, arrest, incarceration, probation, applicable Penal Code sections (including Penal Code section 1203.097, which describes certified treatment programs for batterers), drug and alcohol counseling, legal advocacy, job training, and parenting classes; and

(v) The unique issues in family and psychological assessment in domestic violence cases, including the following concepts:

a. The effects of exposure to domestic violence and psychological trauma on children; the relationship between child physical abuse, child sexual abuse, and domestic violence; the differential family dynamics related to parent-child attachments in families with domestic violence; intergenerational transmission of familial violence; and manifestations of post-traumatic stress disorders in children;

b. The nature and extent of domestic violence, and the relationship of gender, class, race, culture, and sexual orientation to domestic violence;

c. Current legal, psychosocial, public policy, and mental health research related to the dynamics of family violence, the impact of victimization, the psychology of perpetration, and the dynamics of power and control in battering relationships;

d. The assessment of family history based on the type, severity, and frequency of violence;

e. The impact on parenting abilities of being a victim or perpetrator of domestic violence;

f. The uses and limitations of psychological testing and psychiatric diagnosis in assessing parenting abilities in domestic violence cases;

g. The influence of alcohol and drug use and abuse on the incidence of domestic violence;

h. Understanding the dynamics of high-conflict relationships and abuser/victim relationships;

i. The importance of, and procedures for, obtaining collateral information from probation departments, children's protective services, police incident reports, restraining order pleadings, medical records, schools, and other relevant sources;

j. Accepted methods for structuring safe and enforceable child custody and parenting plans that assure the health, safety, welfare, and best interest of the child, and safeguards for the parties; and

k. The importance of discouraging participants in child custody matters from blaming victims of domestic violence for the violence and from minimizing allegations of domestic violence, child abuse, or abuse against any family member.

(B) Four hours of community resource networking intended to acquaint the evaluator with domestic violence resources in the geographical communities where the families being evaluated may reside.

(2) *(Annual update training)* Four hours of update training are required each year after the year in which the advanced training is completed. These four hours ~~will consist of~~must consist of in-person classroom instruction focused on, but not limited to, an update of changes or modifications in local court practices, case law, and state and federal legislation related to domestic violence, and an update of current social science research and theory, particularly in regard to the impact on children of exposure to domestic violence.

(Subd (d) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(e) ***

(f) [Certificate of course completion] Domestic violence training providers ~~shall~~must distribute a certificate of completion to each person who has attended the initial 12-hour in-person classroom instruction and to each person who has attended the annual 4-hour update training in domestic violence for child custody evaluators. The certificate of completion ~~will document~~must document (or state) the number of hours of training offered, the number of

hours the person attended, the date(s) of the training, and the name of the training provider.

(Subd (f) amended effective January 1, 2003.)

(g) [Local court rules] ~~Within a year of the Judicial Council's adoption of this statewide rule of court, e~~ Each local court may adopt rules regarding the procedures by which child custody evaluators ~~that~~who ~~may~~ have completed the training in domestic violence as mandated by this rule will notify the local court. In the absence of such a local rule of court, child custody evaluators ~~shall~~must attach copies of their certificates of completion of the initial 12 hours of advanced in-person classroom instruction and of the most recent annual 4-hour update training in domestic violence to each child custody evaluation report.

(Subd (g) amended effective January 1, 2003.)

(h) ***

Rule 5.230 amended and renumbered effective January 1, 2003; adopted as rule 1257.7 effective January 1, 1999; previously amended effective January 1, 2002.

CHAPTER ~~2.7. 6 Computer Software Standards~~6. Child and Spousal Support

Title Five, Special Rules for Trial Courts—Division Ia, Family Law Rules—Chapter Child and Spousal Support; amended and renumbered effective January 1, 2003; adopted as Chapter 2.7, Computer Software Standards effective December 1, 1993.

Rule ~~1258~~5.275. Standards for computer software to assist in determining support

(a) [Authority] This rule is adopted ~~pursuant to~~ under Family Code section 3830 and article VI, section 6 of the California Constitution.

(Subd (a) amended effective January 1, 2003.)

(b) [Standards] The standards for computer software to assist in determining the appropriate amount of child or spousal support are:

(1) The software ~~shall~~must accurately compute the net disposable income of each parent as follows:

(~~i~~A) Permit entry of the "gross income" of each parent as defined by Family Code section 4058;

(~~ii~~B) Either accurately compute the state and federal income tax liability under Family Code section 4059(a) or permit the entry of a figure for this amount; this figure, in the default state of the program, ~~shall~~must not include the tax consequences of any spousal support to be ordered;

(~~iii~~C) Ensure that any deduction for contributions to the Federal Insurance Contributions Act or as otherwise permitted by Family Code section 4059(b) does not exceed the allowable amount;

(~~iv~~D) Permit the entry of deductions authorized by Family Code sections 4059(c) through (f); and

(~~v~~E) Permit the entry of deductions authorized by Family Code section 4059(g) [Hardship] while ensuring that any deduction subject to the limitation in Family Code section 4071(b) does not exceed that limitation.

(2) Using examples provided by the Judicial Council, the software ~~shall~~must calculate a child support amount, using its default settings, that is accurate to within 1 percent of the correct amount. In making this determination, the Judicial Council ~~shall~~must calculate the correct amount of support for each example and ~~shall~~must then calculate the amount for each example using the software program. Each person seeking certification of software ~~shall~~must supply a copy of the software to the Judicial Council. If the software does not operate on a standard ~~MS/DOS~~Windows 95 or later compatible or Macintosh computer, the person seeking certification of the software ~~shall~~must make available to the Judicial Council any hardware required to use the software. The Judicial Council may delegate the responsibility for the calculation and determinations required by this rule.

(3) The software ~~shall~~must contain, either on the screen or in written form, a glossary defining each term used on the computer screen or in printed hard copy produced by the software.

(4) The software ~~shall~~must contain, either on the screen or in written form, instructions for the entry of each figure that is required for computation of child support using the default setting of the software. These instructions ~~shall~~must include but not be limited to the following:

(~~i~~A) The gross income of each party as provided for by Family Code section 4058;

(~~ii~~B) The deductions from gross income of each party as provided for by Family Code section 4059 and subdivision (b)(1) of this rule;

(~~iii~~C) The additional items of child support provided for in Family Code section 4062; and

(~~iv~~D) The following factors rebutting the presumptive guideline amount: Family Code section 4057(b)(2) [Deferred sale of residence] and 4057(b)(3) [Income of subsequent partner].

(5) In making an allocation of the additional items of child support under subdivision (b)(4)(~~iii~~C) of this rule, the software ~~shall~~must, as its default setting, allocate the expenses one-half to each parent. The software ~~shall~~must also provide, in an easily selected option, the alternative allocation of the expenses as provided for by Family Code section 4061(b).

(6) The software or a license to use the software ~~shall~~must be available to persons without restriction based on profession or occupation.

(7) The sale or donation of software or a license to use the software to a court or a judicial officer ~~shall~~must include a license, without additional charge, to the court or judicial officer to permit an additional copy of the software to be installed on a computer to be made available by the court or judicial officer to members of the public.

(Subd (b) amended effective January 1, 2003.)

(c) [Expiration of certification] ~~Except as provided in subdivision (j), a~~Any certification provided by the Judicial Council ~~pursuant to~~ under Family Code section 3830 and this rule ~~shall~~must expire one year from the date of its issuance unless another expiration date is set forth in the certification. The Judicial Council may provide for earlier expiration of a certification if (1) the provisions involving the calculation of tax consequences change or (2) other provisions involving the calculation of support change.

(Subd (c) amended effective January 1, 2003.)

(d) [Statement of certified public accountant] If the software computes the state and federal income tax liability as provided in subdivision (b)(1)(~~ii~~B) of this rule, the application for certification, whether for original certification or for

renewal, ~~shall~~must be accompanied by a statement from a certified public accountant that

(1) ~~t~~The accountant is familiar with the operation of the software;

(2) ~~t~~The accountant has carefully examined, in a variety of situations, the operation of the software in regard to the computation of tax liability;

(3) ~~i~~In the opinion of the accountant the software accurately calculates the estimated actual state and federal income tax liability consistent with Internal Revenue Service and Franchise Tax Board procedures; ~~and~~

(4) ~~i~~In the opinion of the accountant the software accurately calculates the deductions ~~pursuant to~~ under the Federal Insurance Contributions Act (FICA), including the amount for social security and for Medicare, and the deductions for California State Disability Insurance and properly annualizes these amounts; and

(5) ~~The statement shall s~~States which calendar year the statement includes and ~~shall~~must clearly indicate any limitations on the statement. The Judicial Council may request a new statement as often as it determines necessary to ensure accuracy of the tax computation.

(Subd (d) amended effective January 1, 2003.)

(e) [Renewal of certification] At least three months prior to the expiration of a certification, a person may apply for renewal of the certification. The renewal ~~shall~~must include a statement of any changes made to the software since the last application for certification. Upon request, the Judicial Council will keep the information concerning changes confidential.

(Subd (e) amended effective January 1, 2003.)

(f) [Modifications to the software] The certification issued by the Judicial Council ~~pursuant to~~ under Family Code section 3830 and this rule imposes a duty upon the person applying for the certification to promptly notify the Judicial Council of all changes made to the software during the period of certification. Upon request, the Judicial Council will keep the information concerning changes confidential. The Judicial Council may, after receipt of information concerning changes, require that the software be recertified ~~pursuant to~~ under this rule.

(Subd (f) amended effective January 1, 2003.)

(g) [Definitions] As used in this rule:

(1) "Default settings" refers to the status in which the software first starts when it is installed on a computer system. The software may permit the default settings to be changed by the user, either on a temporary or a permanent basis, if (~~i~~1) the user is permitted to change the settings back to the default without reinstalling the software, (~~ii~~2) the computer screen prominently indicates whether the software is set to the default settings, and (~~iii~~3) any printout from the software prominently indicates whether the software is set to the default settings.

(2) "Contains" means, with reference to software, that the material is either displayed by the program code itself or is found in written documents supplied with the software.

(Subd (g) amended effective January 1, 2003.)

(h) ***

(i) [Application] An application for certification ~~shall~~must be on a form supplied by the Judicial Council and ~~shall~~must be accompanied by an application fee of $250.

(Subd (i) amended effective January 1, 2003.)

~~**(j) [Initial certification]** The initial certification of software under this rule may be made notwithstanding that:~~

~~(1) The software does not use all the default settings required by this rule but does permit each required setting to be selected as an option;~~

~~(2) The requirements of paragraphs (b)(3), (4), (6), and (7) are not met; and~~

~~(3) The tax year for which the statement of the certified public accountant is submitted is for 1993.~~

~~In the event the software is initially certified under this paragraph, the initial certification shall expire on April 30, 1994.~~

(Subd (j) repealed January 1, 2003.)

(~~k~~j) [Acceptability in the courts] All courts must permit parties or attorneys to use any software certified by the Judicial Council under this rule.

(Subd (j) relettered effective January 1, 2003; adopted as subd (k) effective January 1, 2000.)

Rule 5.275 amended and renumbered effective January 1, 2003; adopted as rule 1258 effective December 1, 1993; previously amended effective January 1, 2000.

~~CHAPTER 3.25. Bifurcation and Appeals~~

Chapter 3.25 repealed effective January 1, 2003.

~~CHAPTER 3.5. Summary Dissolution~~

Title Five, Special Rules for Trial Courts—Division I, Rules Pertaining to Proceedings Involving Children and Families—Division 1b, Family Law Rules—Chapter 3.5, Summary Dissolution; repealed effective January 1, 2003, Chapter adopted effective January 1, 1970.

~~Rule 1270. Applicability of chapter~~

~~The provisions of this chapter govern every proceeding for summary dissolution pursuant to chapter 5 (beginning with section 2400) of part 3 of division 6 of the Family Code and do not apply to any other proceeding.~~

Rule 1270 repealed effective January 1, 2003; adopted effective January 1, 1979; amended effective january 1, 1994. The repealed rule related the applicability of the chapter.

~~Rule 1271. Commencing the proceeding~~

(~~a~~) ~~A proceeding for summary dissolution is commenced by completing and filing in the superior court a joint petition for summary dissolution in the form prescribed by rule 1295.10.~~

(~~b~~) ~~Attachment to the petition of completed worksheet pages listing separate and community property and obligations shall constitute compliance with chapter 9 (beginning with section 2100) of part 1 of division 6 of the Family Code.~~

~~(Subd (b) adopted effective January 1, 1993; previously amended effective January 1, 1994.)~~

(~~c~~) ~~The fee for filing the joint petition shall be the same as that charged for filing a petition in the form prescribed by rule 1281. No additional fee shall be charged for the filing of any form prescribed for use in a summary dissolution proceeding, except as required by Government Code section 26859.~~

(Subd (c) adopted effective January 1, 1979, as subd (b), relettered effective January 1, 1993.)

Rule 1271 repealed effective January 1, 2003; adopted effective January 1, 1979; amended effective Janaury 1, 1993, and January 1, 1994. The repealed rule related to comencing a proceeding.

Rule 1272. Revocation

At any time prior to the filing of a request for final judgment, either party may file a completed notice of revocation of summary dissolution petition in the form prescribed by rule 1295.30.

Rule 1272 repealed effective January 1, 2003; adopted effective January 1, 1979. The repealed rule ralted to revocation.

Rule 1273. Final judgment

No final judgment may be entered in a proceeding for summary dissolution unless a party has completed and filed a request for final judgment in the form prescribed by rule 1295.20.

Rule 1273 repealed effective January 1, 200; adopted effectiveJjanuary 1, 1979. The repealed rule related to final judgments.

CHAPTER 4. Forms

Title Five, Special Rules for Trial Courts—Division I, Rules Pertaining to Proceedings Involving Children and Families—Division 1, Family Law Rules; Chapter 4, Forms; repealed effective January 1, 2003; adopted January 1, 1970.

Note
These forms are not reproduced here. Copies are available from the court clerk.

Rule 1275. Use of forms in nonfamily law proceedings

The forms specified by this chapter may be used, at the option of the party, in any proceeding involving a financial obligation growing out of the relationship of parent and child or husband and wife, to the extent they are appropriate to that proceeding.

Rule 1275 repealed effective January 1, 2003; adopted effective July 1, 1985. The repealed rule related to the use of forms in nonfamily law proceedings.

~~Rule 1276. Use of interstate forms~~

~~Notwithstanding any other provision of these rules, all Uniform Interstate Family Support Act forms approved by either the National Conference of Commissioners on Uniform State Laws or the U.S. Department of Health and Human Services are adopted for use in family law and other support actions in California.~~

Rule 1276 repealed effective January 1, 2003; adopted effective July 1, 1988; amended effective January 1, 1998. The repealed rule related to the use of interstate forms.

~~Rule 1278. Status of family law and domestic violence forms~~

~~Each forms adopted or approved by the Judicial Council for use in any proceeding under the Family Code, including but not limited to forms adopted as rules 1281–1299.74 and forms adopted in the ADOPT, DV, and FJ series of forms, are adopted as rules of court under the authority of Family Code section 211 article VI, section 6 of the California Constitution; and other applicable law.~~

Rule 1278 repealed effective January 1, 2003; adopted effective January 1, 2001. The repealed rule related to the status of family law and domestice violence forms.

~~Rule 1279. Reference to UCCJEA instead of UCCJA~~

~~Whenever reference is made to the "Uniform Child Custody Jurisdiction Act" or the "UCCJA" in any adopted or approved Judicial Council form, that reference shall be deemed to also refer, as appropriate, to the "Uniform Child Custody Jurisdiction and Enforcement Act" or "UCCJEA."~~

Rule 1279 repealed effective January 1, 2003; adopted effective January 1, 2000. The repealed rule related toreference toUCCJEA insteadof UCCJA.

~~Rule 1281. Petition (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1281 repealed effective January 1, 2003; previously revised effective January 1, 1972, January 1, 1980, January 1, 1983, July 1, 1990, July 1, 1991, January 1, 1993, January 1, 1994, and January 1, 1995. The repealed rule related to Petition (Family Law).

~~Rule 1282. Response (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1282 repealed effective January 1, 2003; adopted effective January 1, 1970; previously revised effective January 1, 1972, January 1, 1980, January 1, 1983, July 1, 1990, January 1, 1993, and January 1, 1995. The repealed rule related to Response (Family Law).

~~Rule 1282.50. Appearance, Stipulation and Waivers (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1282.50 repealed effective January 1, 2003; adopted effective January 1, 1980. The repealed rule related to Appearance, Stipulation and Waivers (Family Law).

~~Rule 1283. Summons (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1283 repealed effective January 1, 2003; adopted effective January 1, 1970; previously revised effective July 1, 1970, January 1, 1972, July 1, 1972, January 1, 1975, January 1, 1980, July 1, 1990, January 1, 1991, and January 1, 1995. The repealed rule related to Summons (Family Law).

~~Rule 1283.5. Proof of Service of Summons (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1283.5 repealed effective January 1, 2003; adopted effective January 1, 1991. The repealed rule related to Proof of Service of Summons (Family Law).

~~Rule 1284. Confidential Counseling Statement (Marriage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1284 repealed effective January 1, 2003; adopted effective January 1, 1975. The repealed rule related to Confidential Counseling Statement (Marriage).

~~Rule 1285. Order to Show Cause (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285 repealed effective January 1, 2003; adopted January 1, 1980; previously revised effective July 1, 1985, January 1, 1994, and January 1, 2002. The repealed rule related to Order to Show Cause (Family Law).

~~Rule 1285.05. Temporary Restraining Orders (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.05 repealed effective January 1, 2003; adopted effective January 1, 1981; previously revised effective January 1, 1985, January 1, 1987, July 1, 1987, July 1, 1992. and January 1, 1995. The repealed rule related to Temporary Restraining Orders (Family Law).

~~Rule 1285.10. Notice of Motion (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.10 repealed effective January 1, 2003; adopted effective January 1, 1972; previously revised effective January 1, 1980, July 1, 1985, January 1, 1994, and January 1, 2002. The repealed rule related to Notice of Motion (Family Law).

~~Rule 1285.20. Application for Order and Supporting Declaration (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.20 repealed effective January 1, 2003; adopted effective January 1, 1972; previously revised effective January 1, 1980, July 1, 1980, January 1, 1981, January 1, 1987, July 1, 1987, July 1, 1990, January 1, 1993, and January 1, 1995. The repealed rule related to Application for Order and Supporting Declaration (Family Law).

~~Rule 1285.27. Stipulation to Establish or Modify Child Support and Order (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.27 repealed effective January 1, 2003; adopted effective July 1, 1985; previously revised effective January 1, 1986, July 1, 1991, January 1, 1993, January 1, 1994; and January 1, 1995. The repealed rule related to Stipulation to Establish or Modify Child Support and Order (Family Law—Domestic Violence Prevention—Uniform Parentage).

~~Rule 1285.28. Order for Child Support Security Deposit and Evidence of Deposit (Family Law—Uniform Parentage)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.28 repealed effective January 1, 2003; adopted effective January 1, 1992; revised effective January 1, 1995. The repealed rule related to Order for Child Support Security Deposit and Evidence of Deposit (Family Law—Uniform Parentage)..

~~Rule 1285.29. Application for Disbursement and Order for Disbursement from Child Support Security Deposit (Family Law—Uniform Parentage)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.29 repealed effective January 1, 2003; adopted effective January 1, 1992; revised effective January 1, 1995. The repealed rule related to Application for Disbursement and Order for Disbursement from Child Support Security Deposit (Family Law—Uniform Parentage).

~~Rule 1285.30. Notice of Motion and Motion for Simplified Modification of Order for Child, Spousal, or Family Support~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.30 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Notice of Motion and Motion for Simplified Modification of Order for Child, Spousal, or Family Support.

~~Rule 1285.31. Information Sheet—Simplified Way to Change Child, Spousal, or Family Support (Family Law)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.31 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Information Sheet—Simplified Way to Change Child, Spousal, or Family Support (Family Law).

~~Rule 1285.32. Responsive Declaration to Motion for Simplified Modification of Order for Child, Spousal, or Family Support~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.32 repealed effective January 1, 2003; adopted effective July 1, 1997; revised effective January 1, 1998. The repealed rule related to Responsive Declaration to Motion for Simplified Modification of Order for Child, Spousal, or Family Support.

~~1285.33. Information Sheet—How to Oppose a Request to Change Child, Spousal, or Family Support (Family Law)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.33 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Information Sheet—How to Oppose a Request to Change Child, Spousal, or Family Support (Family Law).

~~Rule 1285.40. Responsive Declaration to Order to Show Cause or Notice of Motion (Family Law)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.40 repealed effective January 1, 2003; adopted effective January 1, 1972; previously revised effective January 1, 1980, July 1, 1980, January 1, 1981, July 1, 1985, July 1, 1987, and January 1, 1993. The repealed rule related to Responsive Declaration to Order to Show Cause or Notice of Motion (Family Law).

~~Rule 1285.50. Income and Expense Declaration (Family Law)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.50 repealed effective January 1, 2003; adopted effective January 1, 1972; previously revised effective January 1, 1980, July 1, 1985, January 1, 1986, January 1, 1993, and January 1, 1995. The repealed rule related to Income and Expense Declaration (Family Law).

~~Rule 1285.50a. Income Information (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.50a repealed effective January 1, 2003; adopted effective July 1, 1985; previously revised effective January 1, 1986, January 1, 1993, and January 1, 1995. The repealed rule related to Income Information (Family Law).

~~Rule 1285.50b. Expense Information (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.50b repealed effective January 1, 2003; adopted effective July 1, 1985; previously revised effective January 1, 1986, January 1, 1993, July 1, 1994, and January 1, 1995. The repealed rule related to Expense Information (Family Law).

~~Rule 1285.50c. Child Support Information (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.50c repealed effective January 1, 2003; adopted effective January 1, 1993; revised effective January 1, 1995. The repealed rule related to Child Support Information (Family Law).

~~Rule 1285.52. Financial Statement (Simplified) (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.52 repealed effective January 1, 2003; adopted effective July 1, 1995. The repealed rule related to Financial Statement (Simplified) (Family Law).

~~Rule 1285.55. Property Declaration (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.55 repealed effective January 1, 2003; adopted effective January 1, 1980. The repealed rule related to Property Declaration (Family Law).

~~Rule 1285.56. Continuation of Property Declaration (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.56 repealed effective January 1, 2003; adopted effective January 1, 1980. The repealed rule related to Continuation of Property Declaration (Family Law).

~~Rule 1285.60. Order to Show Cause and Declaration for Contempt (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.60 repealed effective January 1, 2003; adopted effective January 1, 1972; previously revised effective January 1, 1980, and January 1, 2002. The repealed rule related to Order to Show Cause and Declaration for Contempt (Family Law).

~~Rule 1285.61A. Affidavit of Facts Constituting Contempt-Financial and Injunctive Orders (Family Law-Domestic Violence Prevention-Uniform Parentage-Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.61A repealed effective January 1, 2003; adopted effective July 1, 1999. The repealed rule related to Affidavit of Facts Constituting Contempt—Financial and Injunctive Orders (Family Law—Domestic Violence Prevention—Uniform Parentage—Governmental).

~~Rule 1285.61B. Affidavit of Facts Constituting Contempt-Domestic Violence/Custody and Visitation (Family Law-Domestic Violence Prevention-Uniform Parentage-Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.61B repealed effective January 1, 2003; adopted effective July 1, 1999. The repealed rule related to Affidavit of Facts Constituting Contempt—Domestic Violence/Custody and Visitation (Family Law—Domestic Violence Prevention—Uniform Parentage—Governmental).

~~Rule 1285.62. Declaration of Support Arrearage (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.62 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Declaration of Support Arrearage (Family Law).

~~Rule 1285.625. Attachment to Declaration of Support Arrearage (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.62 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Declaration of Support Arrearage (Family Law).

~~Rule 1285.65. Ex Parte Application for Wage and Earnings Assignment Order (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.65 repealed effective January 1, 2003; adopted effective January 1, 1982; previously revised effective January 1, 1986, January 1, 1987, July 1, 1990, January 1, 1995, July 1, 1997, and January 1, 1998. The repealed rule related to Ex Parte Application for Wage and Earnings Assignment Order (Family Law).

~~Rule 1285.66. Findings and Order Regarding Contempt~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.66 repealed effective January 1, 2003; approved effective January 1, 2002. The repealed rule related to Findings and Order Regarding Contempt.

~~Rule 1285.70. Wage and Earnings Assignment Order (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.65 repealed effective January 1, 2003; adopted effective January 1, 1982; previously revised effective January 1, 1986, January 1, 1987, July 1, 1990, January 1, 1995, July 1, 1997, and January 1, 1998. The repealed rule related to Ex Parte Application for Wage and Earnings Assignment Order (Family Law).

~~Rule 1285.72. Stay of Service of Wage Assignment Order and Order (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.72 repealed effective January 1, 2003; adopted effective July 1, 1990. The repealed rule related to Stay of Service of Wage Assignment Order and Order (Family Law).

~~Rule 1285.73. Attachment to Qualified Domestic Relations Order for Support (Earnings Assignment Order for Support) (Family Law–Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.73 repealed effective January 1, 2003; approved effective January 1, 2000. The repealed rule related to Attachment to Qualified Domestic Relations Order for Support (Earnings Assignment Order for Support) (Family Law—Governmental).

~~Rule 1285.74. Qualified Domestic Relations Order for Support (Earnings Assignment Order for Support) (Family Law–Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.74 repealed effective January 1, 2003; approved effective January 1, 2000. The repealed rule related to Qualified Domestic Relations Order for Support (Earnings Assignment Order for Support) (Family Law—Governmental).

~~Rule 1285.75. Application and Order for Health Insurance Coverage (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.75 repealed effective January 1, 2003; adopted effective January 1, 1989; previously revised July 1, 1990, January 1, 1994, and July 1, 1999. The repealed rule related to Application and Order for Health Insurance Coverage (Family Law).

~~Rule 1285.76. Employer's Health Insurance Return (Family Law—Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.76 repealed effective January 1, 2003; adopted effective January 1, 1992; revised effective January 1, 1995. The repealed rule related to Employer's Health Insurance Return (Family Law—Uniform Parentage).

~~Rule 1285.78. Notice of Rights and Responsibilities—Health Care Costs and Reimbursement Procedures~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.78 repealed effective January 1, 2003; adopted effective January 1, 1995. The repealed rule related to Notice of Rights and Responsibilities—Health Care Costs and Reimbursement Procedures.

~~Rule 1285.79. Information Sheet on Changing a Child Support Order (Family Law-Domestic Violence Prevention-Uniform Parentage-Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.79 repealed effective January 1, 2003; approved effective January 1, 1999. The repealed rule related to Information Sheet on Changing a Child Support Order (Family Law—Domestic Violence Prevention—Uniform Parentage—Governmental).

~~Rule 1285.82. Statement for Registration of California Support Order (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.82 repealed effective January 1, 2003; approved effective July 1, 1998. The repealed rule related to Statement for Registration of California Support Order (Family Law).

~~Rule 1285.84. Proof of Personal Service (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.84 repealed effective January 1, 2003; approved effective July 1, 1998. The repealed rule related to Proof of Personal Service (Family Law).

~~Rule 1285.85. Proof Service by Mail (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.85 repealed effective January 1, 2003; approved effective July 1, 1998.

~~Rule 1285.88. Notice of Registration of Out-of-State Support Order (Family Law-Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.88 repealed effective January 1, 2003; approved effective January 1, 1999. The repealed rule related to Notice of Registration of Out-of-State Support Order (Family Law—Governmental).

~~Rule 1285.89. Registration of Out-of-State Custody Decree~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.89 repealed effective January 1, 2003; approved effective January 1, 2001. The repealed rule related to Registration of Out-of-State Custody Decree.

~~Rule 1285.90. Request for Hearing Regarding Registration of Support Order (Family Law-Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1285.90 repealed effective January 1, 2003; revised effective July 1, 1999. The repealed rule related to Request for Hearing Regarding Registration of Support Order (Family Law—Governmental).

~~Rule 1285.92. Child Support Case Registry Form (Family Law-Domestic Violence Prevention-Uniform Parentage-Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

~~Rule 1286. Request to Enter Default (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1286 repealed effective January 1, 2003; adopted effective January 1, 1970; previously revised effective January 1, 1976, and January 1, 1980. The repealed rule related to Request to Enter Default (Family Law).

~~Rule 1286.50. Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law)~~

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1286.50 repealed effective January 1, 2003; adopted effective January 1, 1982; previously revised effective July 1, 1984, January 1, 1987, July 1, 1990, and July 1, 1994. The repealed rule related to Declaration for Default or Uncontested Dissolution or Legal Separation (Family Law).

Rule 1286.75. Request for Separate Trial (Family Law)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1286.75 repealed effective January 1, 2003; adopted effective July 1, 1995. The repealed rule related to Application for Separate Trial (Family Law).

Rule 1287. Judgment (Family Law)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1287 repealed effective January 1, 2003; adopted effective July 1, 1984; previously revised effective July 1, 1985, January 1, 1993, January 1, 1995, and January 1, 1997. The repealed rule related to Judgment (Family Law).

Rule 1287.50. Ex Parte Application for Restoration of Former Name After Entry of Judgment and Order (Family Law)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1287.50 repealed effective January 1, 2003; adopted effective January 1, 1987; revised effective July 1, 1994. The repealed rule related to Ex Parte Application for Restoration of Former Name After Entry of Judgment and Order (Family Law).

Rule 1288. Request and Declaration for Final Judgment of Dissolution of Marriage (Family Law)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1288 repealed effective January 1, 2003; adopted effective January 1, 1970; revised effective January 1, 1980. The repealed rule related to Request and Declaration for Final Judgment of Dissolution of Marriage (Family Law).

Rule 1290. Notice of Entry of Judgment (Family Law)

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1290 repealed effective January 1, 2003; adopted effective January 1, 1970; previously revised effective January 1, 1972, January 1, 1980, July 1, 1984, and July 1, 1985. The repealed rule related to Notice of Entry of Judgment (Family Law).

~~Rule 1290.5. Notice of Withdrawal of Attorney of Record (Family Law-Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1290.5 repealed effective January 1, 2003; adopted effective January 1, 1999. The repealed rule related to Notice of Withdrawal of Attorney of Record (Family Law—Uniform Parentage).

~~Rule 1291.10. Notice of Motion and Declaration for Joinder (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1290 repealed effective January 1, 2003; adopted effective January 1, 1970; previously revised effective January 1, 1972, January 1, 1980, July 1, 1984, and July 1, 1985. The repealed rule related to Notice of Entry of Judgment (Family Law).

~~Rule 1291.15. Request for Joinder of Employee Benefit Plan and Order (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1290 repealed effective January 1, 2003; adopted effective January 1, 1970; previously revised effective January 1, 1972, January 1, 1980, July 1, 1984, and July 1, 1985. The repealed rule related to Notice of Entry of Judgment (Family Law).

~~Rule 1291.20. Responsive Declaration to Motion for Joinder—Consent Order of Joinder (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1291.20 repealed effective January 1, 2003; adopted effective January 1, 1972; revised effective January 1, 1980. The repealed rule related to Responsive Declaration to Motion for Joinder—Consent Order of Joinder (Family Law).

~~Rule 1291.25. Notice of Appearance and Response of Employee Benefit Plan (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1291.25 repealed effective January 1, 2003; adopted effective January 1, 1978; previously revised effective January 1, 1979, and January 1, 1995. The repealed rule related to Notice of Appearance and Response of Employee Benefit Plan (Family Law).

~~Rule 1291.35. Pleading on Joinder—Employee Benefit Plan (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1291.35 repealed effective January 1, 2003; adopted effective January 1, 1979; revised effective January 1, 1995. The repealed rule related to Pleading on Joinder—Employee Benefit Plan (Family Law).

~~Rule 1291.40. Summons (Joinder) (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1291.40 repealed effective January 1, 2003; adopted effective January 1, 1972; previously revised effective July 1, 1972, January 1, 1975, January 1, 1978, and January 1, 1979. The repealed rule related to Summons (Joinder) (Family Law).

~~Rule 1292. Declaration of Disclosure (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1292 repealed effective January 1, 2003; adopted effective January 1, 1993; revised effective January 1,1994. The repealed rule related to Declaration of Disclosure (Family Law).

~~Rule 1292.05. Declaration Regarding Service of Final Declaration of Disclosure (Family Law)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1292.05 repealed effective January 1, 2003; adopted effective January 1, 1994. The repealed rule related to Declaration Regarding Service of Final Declaration of Disclosure (Family Law).

~~Rule 1292.10. Form Interrogatories (Family Law)~~

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1292.10 repealed effective January 1, 2003; approved effective July 1, 1990. The repealed rule related to Form Interrogatories (Family Law).

Rule 1292.11. Schedule of Assets and Debts (Famiy Law)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1292.11 repealed effective January 1, 2003; approved effective July 1, 1990. The repealed rule related to Schedule of Assets and Debts (Family Law).

Rule 1292.15. Request for Production of an Income and Expense Declaration After Judgment (Family Law)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1292.15 repealed effective January 1, 2003; adopted as form 1285.15 effective January 1, 1986; renumbered effective July 1, 1990; revised effective January 1, 1994. The repealed rule related to Request for Production of an Income and Expense Declaration After Judgment (Family Law).

Rule 1292.17. Request for Income and Benefit Information from Employer (Family Law)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1292.17 repealed effective January 1, 2003; adopted effective January 1, 1979; revised effective July 1, 2001. The repealed rule related to Request for Income and Benefit Information from Employer (Family Law).

Rule 1294. Office of the Family Law Facilitator Disclosure

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1294 repealed effective January 1, 2003; approved effective July 1, 2000. The repealed rule related to Office of the Family Law Facilitator Disclosure.

Rule 1294.5. Family Law Information Center Disclosure

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1294.5 repealed effective January 1, 2003; approved effective July 1, 2000. The repealed rule related to Family Law Information Center Disclosure.

Rule 1295.10. Joint Petition for Summary Dissolution of Marriage (Family Law—Summary Dissolution)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1295.10 repealed effective January 1, 2003; adopted effective January 1, 1979; previously revised effective January 1, 1981, January 1, 1983, January 1, 1985, January 1, 1987, January 1, 1989, January 1, 1991, January 1, 1993, and January 1, 1995. The repealed rule related to Joint Petition for Summary Dissolution of Marriage (Family Law-Summary Dissolution).

Rule 1295.10[A]. Summary Dissolution Information

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1295.10(A) repealed effective January 1, 2003; approved effective January 1, 1979; revised effective January 1, 1981. The repealed rule related to Summary Dissolution Information.

Rule 1295.11. Summary Dissolution Information—English (Cover Only)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1295.11 repealed effective January 1, 2003; revised effective January 1, 1991. The repealed rule related to Summary Dissolution Information—English (Cover Only).

Rule 1295.11a. Summary Dissolution Information Insert (Family Law—Summary Dissolution)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1295.11a repealed effective January 1, 2003; adopted effective January 1, 1993. The repealed rule related to Summary Dissolution Information Insert (Family Law—Summary Dissolution).

Rule 1295.12. Summary Dissolution Information—Spanish (Cover Only)

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1295.12 repealed effective January 1, 2003; revised effective January 1, 1991. The repealed rule related to Summary Dissolution Information—Spanish (Cover Only).

~~Rule 1295.20. Request for Final Judgment, Final Judgment of Dissolution of Marriage, and Notice of Entry of Judgment (Family Law—Summary Dissolution)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1295.20 repealed effective January 1, 2003; adopted effective January 1, 1979; previously revised effective January 1, 1981, January 1, 1985, July 1, 1985, January 1, 1993, and January 1, 1995. The repealed rule related to Request for Final Judgment, Final Judgment of Dissolution of Marriage, and Notice of Entry of Judgment (Family Law—Summary Dissolution).

~~Rule 1295.30. Notice of Revocation of Petition for Summary Dissolution (Family Law—Summary Dissolution)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1295.30 repealed effective January 1, 2003; adopted effective January 1, 1979; revised effective January 1, 1995. The repealed rule related to Notice of Revocation of Petition for Summary Dissolution (Family Law—Summary Dissolution).

~~Rule 1295.90. Emergency Protective Order (CLETS) (Domestic Violence and Child Abuse Prevention)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1295.90 repealed effective January 1, 2003; adopted effective July 1, 1988; previously revised effective January 1, 1990, January 1, 1992, January 1, 1994, July 1, 1997, and January 1, 1998. The repealed rule related to Emergency Protective Order (CLETS) (Domestic Violence and Child Abuse Prevention).

~~Rule 1296. Application and Declaration for Order (Domestic Violence)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296 repealed effective January 1, 2003; adopted effective July 1, 1980; previously revised effective January 1, 1981, January 1, 1985, January 1, 1991, January 1, 1994, and January 1, 1997. The repealed rule related to Application and Declaration for Order (Domestic Violence).

~~Rule 1296(A). Instructions for Orders Prohibiting Domestic Violence~~

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1296(A) repealed effective January 1, 2003; approved July 1, 1980; previously revised effective July 1, 1985, January 1, 1994, and July 1, 1997; revised and renumbered effective July 1, 1988. The repealed rule related to Instructions for Orders Prohibiting Domestic Violence.

Rule 1296.10. Order to Show Cause and Temporary Restraining Order (CLETS) (Domestic Violence)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1296(A) repealed effective January 1, 2003; approved July 1, 1980; previously revised effective July 1, 1985, January 1, 1994, and July 1, 1997; revised and renumbered effective July 1, 1988. The repealed rule related to Instructions for Orders Prohibiting Domestic Violence.

Rule 1296.15. Application and Order for Reissuance of Order to Show Cause (Family Law—Domestic Violence Prevention—Uniform Parentage)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1296.15 repealed effective January 1, 2003; adopted effective January 1, 1981; revised effective January 1, 1985. The repealed rule related to Application and Order for Reissuance of Order to Show Cause (Family Law—Domestic Violence Prevention—Uniform Parentage).

Rule 1296.20. Responsive Declaration to Order to Show Cause (Domestic Violence Prevention)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1296.20 repealed effective January 1, 2003; adopted effective July 1, 1980; previously revised effective January 1, 1985, January 1, 1991, and January 1, 1994. The repealed rule related to Responsive Declaration to Order to Show Cause (Domestic Violence Prevention).

Rule 1296.29. Restraining Order After Hearing (CLETS) (Domestic Violence)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1296.29 repealed effective January 1, 2003; adopted effective July 1, 1991; previously revised effective January 1, 1994, and January 1, 1997. The repealed rule related to Restraining Order After Hearing (CLETS) (Domestic Violence).

~~Rule 1296.31. Findings and Order After Hearing (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.31 repealed effective January 1, 2003; adopted effective July 1, 1991; revised effective January 1, 1992. The repealed rule related to Findings and Order After

~~Rule 1296.31A. Child Custody and Visitation Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.31A repealed effective January 1, 2003; adopted effective July 1, 1991; revised effective January 1, 1995. The repealed rule related to Child Custody and Visitation Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage).

~~Rule 1296.31A(1). Supervised Visitation Order (Family Law-Domestic Violence Prevention-Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.31A(1) repealed effective January 1, 2003; adopted effective January 1, 1999. The repealed rule related to Supervised Visitation Order (Family Law—Domestic Violence Prevention—Uniform Parentage).

~~Rule 1296.31B. Child Support Information and Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.31B repealed effective January 1, 2003; adopted effective January 1, 1993; revised effective January 1, 1995. The repealed rule related to Child Support Information and Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage).

~~Rule 1296.31B(1). Child Support Extended Information Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.31B(1) repealed effective January 1, 2003; adopted effective January 1, 1993; revised effective January 1, 1994. The repealed rule related to Child Support Extended Information Attachment

~~Rule 1296.31B(2). Child Support Extended Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.31B(2) repealed effective January 1, 2003; adopted effective January 1, 1993; revised effective January 1, 1995. The repealed rule related to Child Support Extended Order Attachment (Family Law—Domestic Violence Prevention—Uniform Parentage).

~~Rule 1296.31C. Spousal or Family Support Order Attachment (Family Law)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.31C repealed effective January 1, 2003; adopted effective July 1, 1991; revised effective January 1, 1995. The repealed rule related to Spousal or Family Support Order Attachment (Family Law).

~~Rule 1296.31D. Property Order Attachment (Family Law)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.31D repealed effective January 1, 2003; adopted effective July 1, 1991; revised effective January 1, 1995. The repealed rule related to Property Order Attachment (Family Law).

~~Rule 1296.31E. Domestic Violence Miscellaneous Orders Attachment (Domestic Violence Prevention—Uniform Parentage Act)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.31E repealed effective January 1, 2003; adopted effective January 1, 1992; revised effective January 1, 1995. The repealed rule related to Domestic Violence Miscellaneous Orders Attachment (Domestic Violence Prevention—Uniform Parentage Act).

~~Rule 1296.32. Short Form Order After Hearing~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.32 repealed effective January 1, 2003; approved effective January 1, 2002. The repealed rule related to Short Form Order After Hearing.

~~Rule 1296.40. Proof of Service~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.40 repealed effective January 1, 2003; adopted effective July 1, 1980; revised effective January 1, 1985. The repealed rule related to Proof of Service.

~~Rule 1296.45. Registration of Foreign Domestic Violence Restraining Order and Order (CLETS)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.45 repealed effective January 1, 2003; adopted effective January 1, 1999. The repealed rule related to Registration of Foreign Domestic Violence Restraining Order and Order (CLETS).

~~Rule 1296.60. Complaint to Establish Parental Relationship (Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.60 repealed effective January 1, 2003; approved effective January 1, 1985; previously revised effective January 1, 1986, and January 1, 1994. The repealed rule related to Complaint to Establish Parental Relationship (Uniform Parentage).

~~Rule 1296.605. Summons (Uniform Parentage-Petition for Custody and Support)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.605 repealed effective January 1, 2003; adopted effective January 1, 1985; revised effective July 1, 1999. The repealed rule related to Summons (Uniform Parentage—Petition for Custody and Support).

~~Rule 1296.61. Standard Restraining Order (Uniform Parentage Act)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.61 repealed effective January 1, 2003; approved effective July 1, 1990; revised effective January 1, 1991. The repealed rule related to Standard Restraining Order (Uniform Parentage Act).

~~Rule 1296.65. Answer—Complaint to Establish Parental Relationship (Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.65 repealed effective January 1, 2003; approved effective January 1, 1986; revised effective January 1, 1994. The repealed rule related to Answer—Complaint to Establish Parental Relationship (Uniform Parentage).

~~Rule 1296.70. Declaration for Default or Uncontested Judgment (Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.70 repealed effective January 1, 2003; adopted effective January 1, 1999. The repealed rule related to Declaration for Default or Uncontested Judgment (Uniform Parentage).

~~Rule 1296.72. Advisement and Waiver of Rights Re: Establishment of Parental Relationship (Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.72 repealed effective January 1, 2003; approved effective January 1, 1999. The repealed rule related to Advisement and Waiver of Rights Re: Establishment of Parental Relationship (Uniform Parentage).

~~Rule 1296.74. Stipulation for Entry of Judgment Re: Establishment of Parental Relationship (Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.74 repealed effective January 1, 2003; adopted effective January 1, 1999. The repealed rule related to Stipulation for Entry of Judgment Re: Establishment of Parental Relationship (Uniform Parentage).

~~Rule 1296.75. Judgment (Uniform Parentage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.75 repealed effective January 1, 2003; adopted effective January 1, 1999. The repealed rule related to Judgment (Uniform Parentage).

~~Rule 1296.77. Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity (Family Law-Uniform Parentage-Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.77 repealed effective January 1, 2003; adopted effective July 1, 2000. The repealed rule related to Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity (Family Law—Uniform Parentage—Governmental).

~~Rule 1296.78. Responsive Declaration to Application to Set Aside Voluntary Declaration of Paternity (Family Law-Uniform Parentage-Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.78 repealed effective January 1, 2003; adopted effective July 1, 2000. The repealed rule related to Responsive Declaration to Application to Set Aside Voluntary Declaration of Paternity (Family Law—Uniform Parentage—Governmental).

Rule 1296.79. Order After hearing on Motion to Set Aside Voluntary Declaration of Paternity (Family Law-Uniform Parentage-Governmental)

Note
This form is not reproduced here. It is available from the court clerk.

Rule 1296.79 repealed effective January 1, 2003; adopted effective July 1, 2000. The repealed rule related to Order After hearing on Motion to Set Aside Voluntary Declaration of Paternity (Family Law—Uniform Parentage—Governmental).

~~Rule 1296.80. Petition for Custody and Support of Minor Children~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.80 repealed effective January 1, 2003; approved effective January 1, 2001. The repealed rule related to Petition for Custody and Support of Minor Children.

~~Rule 1296.81. Response to Petition for Custody and Support of Minor Children~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.81 repealed effective January 1, 2003; approved effective January 1, 2001; revised effective January 1, 2001. The repealed rule related to Response to Petition for Custody and Support of Minor Children.

~~Rule 1296.87. Request for Hearing and Application to Set Aside Support Order (Family Law-Uniform Parentage-Governmental)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.87 repealed effective January 1, 2003; approved effective January 1, 2001. The repealed rule related to Request for Hearing and Application to Set Aside Support Order (Family Law—Uniform Parentage—Governmental).

~~Rule 1296.88. Responsive Declaration to Application to Set Aside Support Order (Family Law-Uniform Parentage-Governmental)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.88 repealed effective January 1, 2003; adopted effective January 1, 2001. The repealed rule related to Responsive Declaration to Application to Set Aside Support Order (Family Law—Uniform Parentage—Governmental).

~~Rule 1296.89. Order After Hearing on Motion to Set Aside Support Order (Family Law-Uniform Parentage-Governmental)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.89 repealed effective January 1, 2003; adopted effective January 1, 2001. The repealed rule related to Order After Hearing on Motion to Set Aside Support Order (Family Law—Uniform Parentage—Governmental).

~~Rule 1296.90. Notice of Delinquency (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.90 repealed effective January 1, 2003; adopted effective March 1, 1992; revised effective January 1, 1995. The revised rule related to Notice of Delinquency (Family Law—Domestic Violence Prevention—Uniform Parentage).

~~Rule 1296.91. Notice of Motion to Determine Arrearages (Family Law—Domestic Violence Prevention—Uniform Parentage)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.91 repealed effective January 1, 2003; adopted effective March 1, 1992; revised effective January 1, 1994. The repealed rule related to Application to Determine Arrearages (Family Law—Domestic Violence Prevention—Uniform Parentage).

~~Rule 1296.95. Notice of Motion for Judicial Review of License Denial (Family Law)~~

~~Note~~

~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.95 repealed effective January 1, 2003; adopted effective January 1, 1993. The repealed rule related to Notice of Motion for Judicial Review of License Denial (Family Law).

~~Rule 1296.96. Order After Judicial Review of License Denial (Family Law)~~

~~Note~~

~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1296.96 repealed effective January 1, 2003; adopted effective January 1, 1993. The repealed rule related to Order After Judicial Review of License Denial (Family Law).

~~Rule 1297. Application for Expedited Child Support Order (Family Code, §§ 3620-3634) (Family Law)~~

~~Note~~

~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1297 repealed effective January 1, 2003; adopted effective January 1, 1986; revised effective January 1, 1994. The repealed rule related to Application for Expedited Child Support Order (Family Code, §§ 3620–3634) (Family Law).

~~Rule 1297.10. Response to Application for Expedited Child Support Order and Notice of Hearing (Family Code, §§ 3620-3634) (Family Law)~~

~~Note~~

~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1297.10 repealed effective January 1, 2003; adopted effective January 1, 1986; revised effective January 1, 1994. The repealed rule related to Response to Application for Expedited Child Support Order and Notice of Hearing (Family Code, §§ 3620–3634) (Family Law).

~~Rule 1297.20. Expedited Child Support Order (Family Code, §§ 3620-3634) (Family Law)~~

~~Note~~

~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1297.20 repealed effective January 1, 2003; adopted effective January 1, 1986; previously revised effective January 1, 1994, and January 1, 1995. The repealed rule related to Expedited Child Support Order (Family Code, §§ 3620-3634) (Family Law).

~~Rule 1297.90. Application for Notice of Support Arrearage (Support Arrearage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1297.90 repealed effective January 1, 2003; adopted effective July 1, 1989; revised effective January 1, 1990. The repealed rule related to Application for Notice of Support Arrearage (Support Arrearage).

~~Rule 1297.91. Proof of Service of Application (Support Arrearage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1297.91 repealed effective January 1, 2003; adopted effective July 1, 1989; revised effective January 1, 1990. The repealed rule related to Proof of Service of Application (Support Arrearage).

~~Rule 1297.92. Notice of Support Arrearage (Support Arrearage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1297.92 repealed effective January 1, 2003; adopted effective July 1, 1989; revised effective January 1, 1990. The repealed rule related to Notice of Support Arrearage (Support Arrearage).

~~Rule 1297.93. Notice to Judgment Debtor (Support Arrearage)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1297.93 repealed effective January 1, 2003; adopted effective July 1, 1989; revised effective January 1, 1990. The repealed rule related to Notice to Judgment Debtor (Support Arrearage).

~~Rule 1298.03. Request for Order and Supporting Declaration (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.03 repealed effective January 1, 2003; adopted effective July 1, 1994. The repealed rule related to Request for Order and Supporting Declaration (Governmental).

~~Rule 1298.04. Declaration and Request for Order and Order (Support Enforcement and Earnings Assignment) (Governmental)~~

~~Note~~
~~This is form is not reproduced here. It is available from the court clerk.~~

Rule 1298.04 repealed effective January 1, 2003; adopted effective January 1, 1995; revised effective July 1, 1997. The repealed rule related to Declaration and Request for Order and Order (Support Enforcement and Earnings Assignment) (Governmental).

~~Rule 1298.045. Order for Blood (Parentage) Testing~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.045 repealed effective January 1, 2003; adopted effective January 1, 1995. The repealed rule related to Order for Blood (Parentage) Testing.

~~Rule 1298.05. Response to Governmental Notice of Motion or Order to Show Cause (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.05 repealed effective January 1, 2003; adopted effective July 1, 1994. The repealed rule related to Response to Governmental Notice of Motion or Order to Show Cause (Governmental).

~~Rule 1298.06. Stipulation and Order (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.06 repealed effective January 1, 2003; adopted effective July 1, 1994; revised effective January 1, 1995. The repealed rule related to Stipulation and Order (Governmental).

~~Rule 1298.07. Order after Hearing (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is availble from the court clerk.~~

Rule 1298.07 repealed effective January 1, 2003; adopted effective July 1, 1994; previously revised effective January 1, 1995, and July 1, 1997. The repealed rule related to Order after Hearing (Governmental).

~~Rule 1298.085. Declaration for Default or Uncontested Judgment (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.085 repealed effective January 1, 2003; adopted effective January 1, 1995. The repealed rule related to Declaration for Default or Uncontested Judgment (Governmental).

~~Rule 1298.09. Notice of Motion (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.09 repealed effective January 1, 2003; adopted effective July 1, 1994; revised effective January 1, 2002. The repealed rule related to Notice of Motion (Governmental).

~~Rule 1298.30. Statement for Registration of Foreign Support Order (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.30 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Statement for Registration of Foreign Support Order (Governmental).

~~Rule 1298.32. Notice of Registration of California Support Order (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.32 repealed effective January 1, 2003; adopted effective July 1, 1999. The repealed rule related to Notice of Registration of California Support Order (Governmental).

~~Rule 1298.50. Summons (UIFSA)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.50 repealed effective January 1, 2003; adopted effective July 1, 1999. The repealed rule related to Summons (UIFSA).

~~Rule 1298.52. Order to Show Cause (UIFSA)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.52 repealed effective January 1, 2003; adopted effective July 1, 1999. The repealed rule related to Order to Show Cause (UIFSA).

~~Rule 1298.54. Response to Uniform Support Petition (UIFSA)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.54 repealed effective January 1, 2003; adopted effective July 1, 1999. The repealed rule related to Response to Uniform Support Petition (UIFSA).

~~Rule 1298.56. Ex Parte Application for Order for Nondisclosure of Address and Order (UIFSA)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.56 repealed effective January 1, 2003; adopted effective July 1, 1999. The repealed rule related to Ex Parte Application for Order for Nondisclosure of Address and Order (UIFSA).

~~Rule 1298.58. Judgment Regarding Parental Obligations (UIFSA)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

~~Rule 1298.58. Judgment Regarding Parental Obligations (UIFSA)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.58 repealed effective January 1, 2003; adopted effective July 1, 2000. The repealed rule related to Judgment Regarding Parental Obligations (UIFSA).

~~Rule 1298.60. Ex Parte Application for Transfer and Order (UIFSA)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1298.60 repealed effective January 1, 2003; adopted effective July 1, 2000. The repealed rule related to Ex Parte Application for Transfer and Order (UIFSA).

~~Rule 1299.01. Summons and Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.01 repealed effective January 1, 2003; adopted effective July 1, 1997; previously revised effective January 1, 1998, and January 1, 2002. The repealed rule related to Summons and Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental).

~~Rule 1299.04. Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.04 repealed effective January 1, 2003; adopted effective July 1, 1997; revised effective January 1, 2002. The repealed rule related to Answer to Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental).

~~Rule 1299.05. Information Sheet for Service of Process (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.05 repealed effective January 1, 2003; approved effective July 1, 1997. The repealed rule related to Information Sheet for Service of Process (Governmental).

~~Rule 1299.07. Stipulation for Judgment or Supplemental Judgment Regarding Parental Obligations and Judgment (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.07 repealed effective January 1, 2003; adopted effective July 1, 1997; revised effective January 1, 1998. Stipulation for Judgment or Supplemental Judgment Regarding Parental Obligations and Judgment (Governmental).

~~Rule 1299.10. Request to Enter Default Judgment (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.10 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Request to Enter Default Judgment (Governmental).

~~Rule 1299.13. Judgment Regarding Parental Obligations (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.13 repealed effective January 1, 2003; adopted effective July 1, 1997; revised effective January 1, 1998. The repealed rule related to Judgment Regarding Parental Obligations (Governmental).

~~Rule 1299.16. Notice of Entry of Judgment and Certification of Service by Mail (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.16 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Notice of Entry of Judgment and Certification of Service by Mail (Governmental).

~~Rule 1299.17. Declaration for Amended Proposed Judgment (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.17 repealed effective January 1, 2003; adopted effective July 1, 1997; revised effective January 1, 1998. The repealed rule related to Declaration for Amended Proposed Judgment (Governmental).

~~Rule 1299.19. Notice Motion to Cancel (Set Aside) Support Order Based on Presumed Income and Proposed Answer (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.19 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Notice Motion to Cancel (Set Aside) Support Order Based on Presumed Income and Proposed Answer (Governmental).

~~Rule 1299.22. Stipulation and Order (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.22 repealed effective January 1, 2003; adopted effective July 1, 1997; revised effective January 1, 1998. The repealed rule related to Stipulation and Order (Governmental).

~~Rule 1299.25. Notice of Wage and Earnings Assignment (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.25 repealed effective January 1, 2003; adopted effective July 1, 1997; revised effective January 1, 1998. The repealed rule related to Notice of Wage and Earnings Assignment (Governmental).

~~Rule 1299.28. Request for Hearing regarding Notice of Wage and Earnings Assignment (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.28 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Request for Hearing regarding Notice of Wage and Earnings Assignment (Governmental).

~~Rule 1299.40. Request for Judicial Determination of Support Arrearages (Governmental)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.40 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Request for Judicial Determination of Support Arrearages (Governmental).

~~Rule 1299.43. Notice of Opposition and Notice of Motion on Claim Exemption (Governmental)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.43 repealed effective January 1, 2003; adopted effective July 1, 1997; revised effective January 1, 1998. The repealed rule related to Notice of Opposition and Notice of Motion on Claim Exemption (Governmental).

~~Rule 1299.46. Order Determining Claim of Exemption or Third-Party Claim (Governmental)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.46 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Order Determining Claim of Exemption or Third-Party Claim (Governmental).

~~Rule 1299.49. Notice to District Attorney of Intent to Take Independent Action to Enforce Support Order (Governmental)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.49 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Notice to District Attorney of Intent to Take Independent Action to Enforce Support Order (Governmental).

~~Rule 1299.52. Response of District Attorney to Notice of Intent to Take Independent Action to Enforce Support Order (Governmental)~~

~~**Note**~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.52 repealed effective January 1, 2003; adopted effective July 1, 1997. The repealed rule related to Response of District Attorney to Notice of Intent to Take Independent Action to Enforce Support Order (Governmental).

~~Rule 1299.55. Notice Regarding Payment of Support (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.55 repealed effective January 1, 2003; adopted effective July 1, 1999. The repealed rule related to Notice Regarding Payment of Support (Governmental).

~~Rule 1299.58. Ex Parte Motion by District Attorney and Declaration for Joinder of Other Parent (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.58 repealed effective January 1, 2003; adopted effective July 1, 1998. The repealed rule related to Ex Parte Motion by District Attorney and Declaration for Joinder of Other Parent (Governmental).

~~Rule 1299.61. Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.61 repealed effective January 1, 2003; approved effective July 1, 1998. The repealed rule related to Notice of Motion and Declaration for Joinder of Other Parent in Governmental Action (Governmental).

~~Rule 1299.64. Responsive Declaration to Motion for Joinder of Other Parent-Consent Order of Joinder (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.64 repealed effective January 1, 2003; approved effective July 1, 1998. The repealed rule related to Responsive Declaration to Motion for Joinder of Other Parent—Consent Order of Joinder (Governmental).

~~Rule 1299.67. Stipulation and Order for Joinder of Other Parent (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.67 repealed effective January 1, 2003; adopted effective July 1, 1998. The repealed rule related to Stipulation and Order for Joinder of Other Parent (Governmental).

~~Rule 1299.70. Findings and Recommendation of Commissioner (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.70 repealed effective January 1, 2003; adopted effective July 1, 1998. The repealed rule related to Findings and Recommendation of Commissioner (Governmental).

~~Rule 1299.72. Notice of Objection (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.72 repealed effective January 1, 2003; adopted effective January 1, 1999. The repealed rule related to Notice of Objection (Governmental).

~~Rule 1299.74. Review of Commissioner's Findings of Fact and Recommendation (Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.74 repealed effective January 1, 2003; adopted effective January 1, 1999. The repealed rule related to Review of Commissioner's Findings of Fact and Recommendation (Governmental).

~~Rule 1299.77. Notice of Consolidation (Family Law-Uniform Parentage-Governmental)~~

~~Note~~
~~This form is not reproduced here. It is available from the court clerk.~~

Rule 1299.77 repealed effective January 1, 2003; approved effective January 1, 2001. The repealed rule related to Notice of Consolidation (Family Law—Uniform Parentage—Governmental).

CHAPTER ~~5~~ 7 Rules for Title IV-D Support Actions

Title Five, Special Rules for Trial Courts—Division 1, Rules Pertaining to Proceedings Involving Children and Families—Division 1a, Family Law Rules—Chapter 7, Rules for Title IV-D Support Actions; renumbered January 1, 2003; adopted as Chapter 5 effective July 1, 1997.

Rule 1280. [Renumbered 1987 and again in 2002]

~~*Rule 1280 adopted effective January 1, 1985. Amended effective July 1, 1985, and January 1, 1986. Renumbered rule 982.9, effective July 1, 1987.*~~

Rule ~~1280~~5.300. Purpose, authority, and definitions

(a) [Purpose] The rules in this chapter are adopted to provide practice and procedure for support actions under Title IV-D of the Social Security Act and under California statutory provisions concerning these actions.

(b) [Authority] These rules are adopted ~~pursuant to~~ under article VI, section 6 of the California Constitution and ~~;~~ Family Code sections 211, 3680(b), 4251(a), 4252(b), ~~and~~ 10010~~; and Welfare and Institutions Code sections 11350.1(g), 11356(d), and 11475.1(c).~~, 17404, 17432, and 17400.

(Subd (b) amended effective January 1, 2003.)

(c) [Definitions] As used in these rules, unless the context requires otherwise, "Title IV-D support action" refers to an action for child or family support that is brought by or otherwise involves the ~~district attorney~~ local child support agency ~~pursuant to~~ under Title IV-D of the Social Security Act.

(Subd (c) amended effective January 1, 2003.)

Rule 5.300 amended and renumbered effective January 1, 2003; adopted as rule 1280 effective January 1, 1977.

Rule ~~1280.1~~5.305. Hearing of matters by a judge under Family Code sections 4251(a) and 4252(b)(7)

(a) [Exceptional circumstances] The exceptional circumstances under which a judge may hear a Title IV-D support action include:

(1) The failure of the judge to hear the action would result in significant prejudice or delay to a party including, but not limited to, added cost or loss of work time.

(2) Transferring the matter to a commissioner would result in undue consumption of court time.

(3) Physical impossibility or difficulty due to the commissioner being geographically separate from the judge presently hearing the matter.

(4) The absence of the commissioner from the county due to illness, disability, death, or vacation.

(5) The absence of the commissioner from the county due to service in another county and the difficulty of travel to the county in which the matter is pending.

(Subd (a) amended effective January 1, 2003.)

(b) [Duty of judge hearing matter] A judge hearing a Title IV-D support action ~~pursuant to~~ under this rule and Family Code sections 4251(a) and 4252(b)(7) ~~shall~~must make an interim order and refer the matter to the commissioner for further proceedings.

(Subd (b) amended effective January 1, 2003.)

(c) [Discretion of the court] Notwithstanding sections (a) and (b) of this rule, a judge may, in the interests of justice, transfer a case to a commissioner for hearing.

Rule 5.305 amended and renumbered effective January 1, 2003; adopted as rule 1280.1 effective July 1, 1997.

Rule ~~1280.2~~5.310. Use of existing family law forms

When an existing family law form is required or appropriate for use in a Title IV-D support action, the form may be used notwithstanding the absence of a notation for the other parent as a party ~~pursuant to~~ under ~~Welfare and Institutions~~Family Code section ~~11350.1(e)~~17404. The caption of the form ~~shall~~must be modified by the person filing it by adding the words "Other parent:" and the name of the other parent to the form.

Rule 5.310 amended and renumbered effective January 1, 2003; adopted as rule 1280.2 effective July 1, 1997.

Rule ~~1280.3~~5.315. Memorandum of points and authorities

Notwithstanding any other rule, including rule 313, a notice of motion in a Title IV-D support action ~~shall~~must not be required to contain points and authorities if the notice of motion uses a form adopted or approved by the Judicial Council. The absence of points and authorities under these circumstances ~~shall~~may not be

construed by the court as an admission that the motion is not meritorious and cause for its denial.

Rule 5.315 amended and renumbered effective January 1, 2003; adopted as rule 1280.3 effective July 1, 1997.

Rule ~~1280.4~~5.320. Attorney of ~~R~~record in support actions under Title IV-D of the Social Security Act

The attorney of record on behalf of a local child support agency appearing in any action under Title IV-D of the Social Security Act ~~shall be the district attorney of the county if that agency is under the supervision of the district attorney. If the local child support agency is not under the supervision of the district attorney, the attorney of record shall be~~ is the director of the local child support agency, or if the director of that agency is not an attorney, the senior attorney of that agency or an attorney designated by the director for that purpose. Notwithstanding any other rule, including but not limited to rule 201(e), the name, address, and telephone number of the county child support agency and the name of the attorney of record ~~shall~~ are~~be~~ sufficient for any papers filed by the child support agency. The name of the deputy or assistant district attorney or attorney of the child support agency, who is not attorney of record, and the State Bar number of the attorney of record or any of his or her assistants ~~shall~~ are not ~~be~~ required.

Rule 5.320 amended and renumbered effective January 1, 2003; adopted as rule 1280.4 effective July 1, 1997; previously amended effective January 1, 2001.

Rule ~~1280.5~~5.325. Procedures for clerk's handling of combined summons and complaint

(a) [Purpose] This rule provides guidance to court clerks in processing and filing the Judicial Council combined form *Summons and Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)* (form ~~1299.01~~FL-600) for actions ~~brought~~ under ~~Welfare and Institutions~~ Family Code section ~~11475.1~~ 17400 or ~~11350.1~~17404.

(Subd (a) amended effective January 1, 2003.)

(b) [Filing of complaint and issuance of summons] The clerk ~~shall~~must accept the *Summons and Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)* (form ~~1299.01~~FL-600) for filing under Code of Civil Procedure section 411.10. The clerk ~~shall~~must issue the original summons in accordance with Code of Civil Procedure section 412.20 by filing

the original form ~~1299.01~~ FL-600 and affixing the seal of the court. The original form ~~1299.01~~ FL-600 ~~shall~~must be retained in the court's file.

(Subd (b) amended effective January 1, 2003.)

(c) [Issuance of copies of combined summons and complaint] Upon issuance of the original summons, the clerk ~~shall~~must conform copies of the filed form ~~1299.01~~ FL-600 to reflect that the complaint has been filed and the summons has been issued. A copy of ~~the~~ form ~~1299.01~~ FL-600 so conformed ~~shall~~must be served on the defendant in accordance with Code of Civil Procedure section 415.10 et seq.

(Subd (c) amended effective January 1, 2003.)

(d) [Proof of service of summons] Proof of service of the *Summons and Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental*) (form ~~1299.01~~FL-600) ~~shall~~must be on the form prescribed by rule ~~982(a)(23)~~ 982.9 or any other proof of service form that meets the requirements of Code of Civil Procedure section 417.10.

(Subd (d) amended effective January 1, 2003.)

(e) [Filing of proposed judgment and amended proposed judgment] The proposed judgment ~~shall~~must be an attachment to the form ~~1299.01~~FL-600 *Summons and Complaint or Supplemental Complaint Regarding Parental Obligations (Governmental)* and ~~shall~~must not be file-endorsed separately. An amended proposed judgment submitted for filing ~~shall~~must be attached to the declaration for amended proposed judgment ~~prescribed by rule 1299.17~~per form FL-616, as required by ~~Welfare and Institutions~~ Family Code section ~~11355(c)~~17430(c), and a proof of service by mail, if appropriate. Upon filing, the declaration for amended proposed judgment ~~shall~~may be file-endorsed. The amended proposed judgment ~~shall~~must not be file-endorsed.

(Subd (e) amended effective January 1, 2003.)

Rule 5.325 amended and renumbered effective January 1, 2003; adopted as rule 1280.5 effective July 1, 1998.

Rule ~~1280.6~~5.330. Procedures for child support case registry form

(a) [Purpose] This rule provides guidance to court clerks in processing the Judicial Council *Child Support Case Registry Form ~~(Family Law)~~* (~~F~~form ~~1285.92~~FL-191).

(Subd (a) amended effective January 1, 2003.)

(b) [Application] This rule applies to any action or proceeding in which there is an order for child support or family support except for cases in which the ~~district attorney~~ local child support agency provides support enforcement services ~~pursuant to~~ under~~Welfare and Institutions~~ Family Code section ~~11475.1~~17400. This rule does not apply to cases in which the ~~district attorney~~ local child support agency provides support enforcement services ~~pursuant to~~ under~~Welfare and Institutions~~ Family Code section ~~11475.1~~17400.

(Subd (b) amended effective January 1, 2003.)

(c) [Requirement that form be filed] The court ~~shall~~must require that a *Child Support Case Registry Form ~~(Family Law)~~* (~~1285.92F~~form FL-191), completed by one of the parties, be filed each time an initial court order for child support or family support or a modification of a court order for child support or family support is filed with the court. A party attempting to file an initial judgment or order for child support or family support or a modification of an order for child or family support without a completed *Child Support Case Registry Form ~~(Family Law)~~* (~~Form 1285.92~~form FL-191), must be given a blank form to complete. The form ~~shall~~must be accepted if legibly handwritten in ink or typed. No filing fees ~~shall~~may be charged for filing the form.

(Subd (c) amended effective January 1, 2003.)

(d) [Distribution of the form] Copies of the *Child Support Case Registry Form ~~(Family Law)~~* (~~Form 1285.92~~ form FL-191) ~~shall~~must be made available by the clerk's office and the family law facilitator's office to the parties without cost. A blank copy of the *Child Support Case Registry Form ~~(Family Law)~~* (~~Form 1285.92~~form FL-191) ~~shall~~must be sent with the notice of entry of judgment to the party who did not submit the judgment or order.

(Subd (d) amended effective January 1, 2003.)

(e) [Items on form that must be completed] A form ~~shall~~must be considered complete if items 1b, 1c, 2, 5, and 6 are completed. Either item 3 or item 4 must also be completed as appropriate. If the form is submitted with the judgment or order for court approval, the clerk ~~shall~~must complete item 1a once the judgment or order has been signed by the judicial officer and filed.

(Subd (e) amended effective January 1, 2003.)

(f) [Clerk handling of form] The completed *Child Support Case Registry Form ~~(Family Law)~~* (~~Form 1285.92~~form FL-191) ~~shall~~must not be stored in the court's file. It should be date and time stamped when received and stored in an area to which the public does not have access. At least once per month all forms received ~~shall~~must be mailed to the California Department of Social Services.

(Subd (f) amended effective January 1, 2003.)

(g) [Storage of confidential information] Provided that all information is kept confidential, the court may keep either a copy of the form or the information provided on the form in an electronic format.

Rule 5.330 amended and renumbered effective January 1, 2003; adopted as rule 1280.6 effective July 1, 1999.

Rule ~~1280.7~~5.335. Procedures for hearings on interstate income withholding orders

(a) [Purpose] This rule provides a procedure for a hearing ~~pursuant to~~ under Family Code section 4945 in response to an income withholding order.

(Subd (a) amended effective January 1, 2003.)

(b) [Filing of request for hearing] A support obligor may contest the validity or enforcement of an income withholding order by filing a completed request for hearing. A copy of the income withholding order must be attached.

(c) [Filing fee] The court ~~shall~~must not require a filing fee to file the request for hearing under this rule.

(Subd (c) amended effective January 1, 2003.)

(d) [Creation of court file] Upon receipt of the completed request for hearing and a copy of the income withholding order, the clerk ~~shall~~must assign a case number and schedule a court date. The court date ~~shall~~must be no earlier than 30 days from the date of filing and no later than 45 days from the date of filing.

(Subd (d) amended effective January 1, 2003.)

(e) [Notice of hearing] The support obligor ~~shall~~must provide the clerk with envelopes addressed to the obligor, the support enforcement agency that sent the income withholding order, and the obligor's employer. The support obligor ~~shall~~must also provide an envelope addressed to the person or agency designated to receive the support payments if that person or agency is different

than the support enforcement agency that sent the income withholding order. The support obligor ~~shall~~must provide sufficient postage to mail each envelope provided. Upon scheduling the hearing, the clerk ~~shall~~must mail a copy of the request for hearing in each envelope provided by the support obligor.

(Subd (e) amended effective January 1, 2003.)

(f) [Use of court file in subsequent proceedings] Any subsequent proceedings filed in the same court that involve the same parties and are filed ~~pursuant to~~under the Uniform Interstate Family Support Act (UIFSA) ~~shall~~must utilize the file number created under this rule.

(Subd (f) amended effective January 1, 2003.)

(g) [Definitions] As used in this rule:

(1) An "income withholding order" is the ~~*Interstate*~~ *Order/Notice to Withhold Income for Child Support* (see form FL-195) issued by a child support enforcement agency in another state.

(2) A "request for hearing" is the *Request for Hearing Regarding Wage and Earnings Assignment (Family Law—Governmental—UIFSA)* (~~Form 1299.28~~see form FL-450).

(Subd (g) amended effective January 1, 2003.)

Rule 5.335 amended and renumbered effective January 1, 2003; adopted as rule 1280.7 effective July 1, 1999.

Rule ~~1280.8~~5.340. Judicial education for child support commissioners

Every commissioner whose principal judicial assignment is to hear child support matters ~~shall~~must attend the following judicial education programs:

(a) [Basic child support law education] Within six months of beginning an assignment as a child support commissioner, the judicial officer ~~shall~~must attend a basic educational program on California child support law and procedure designed primarily for judicial officers. The training program ~~shall~~must include instruction on both state and federal laws concerning child support. A judicial officer who has completed the basic educational program need not attend the basic educational program again.

(Subd (a) amended effective January 1, 2003.)

(b) [Continuing education] The judicial officer ~~shall~~must attend an update on new developments in child support law and procedure at least once each calendar year.

(Subd (b) amended effective January 1, 2003.)

(c) [Other child support education] To the extent that judicial time and resources are available, the judicial officer is encouraged to attend additional educational programs on child support and other related family law issues.

(d) [Other judicial education] The requirements of this rule are in addition to and not in lieu of the requirements of rule 970(e).

Rule 5.340 amended and renumbered effective January 1, 2003; adopted as rule 1280.8 effective July 1, 1999.

~~**Rule 1280.9. References in forms to conform to Family Code Division 17.**~~

~~**(a) [Reference to district attorney]** Any reference to "district attorney" or "governmental agency" in any adopted or approved Judicial Council form concerning child, spousal, or family support, shall be deemed to include as appropriate the county department of child support services required to be established by Family Code section 17304.~~

~~**(b) [Reference to Welfare and Institutions Code sections]** Any reference made to any Welfare and Institutions Code section repealed by Statutes 1999, Chapters 478 and 480 in any adopted or approved Judicial Council form, shall be deemed to refer as appropriate to the corresponding section of the Family Code as follows:~~

~~Welfare & Institutions Code~~	~~Family Code~~
~~W&I 11350~~	~~FC 17402~~
~~W&I 11350.1~~	~~FC 17404~~
~~W&I 11350.1(f)~~	~~FC 17404(f)~~
~~W&I 11350.6~~	~~FC 17520~~
~~W&I 11350.8~~	~~FC 17526~~
~~W&I 11352~~	~~FC 17428~~
~~W&I 11355~~	~~FC 17430~~

~~W&I 11355(c) FC 17430(c)~~

~~W&I 11355(d) FC 17430(d)~~

~~W&I 11356 FC 17432~~

~~W&I 11475.1 FC 17400~~

~~W&I 11478.2 FC 17406~~

Rule 1280.9 repealed effective January 1, 2003; adopted effective January 1, 2000. The repealed rule related to references in forms to conform to Family Code division 17.

Rule ~~1280.10~~5.350. Procedures for hearings to set aside voluntary declarations of paternity when no previous action has been filed

(a) [Purpose] This rule provides a procedure for a hearing to set aside a voluntary declaration of paternity under Family Code section 7575(c).

(b) [Filing of request for hearing] A person who has signed a voluntary declaration of paternity may ask that the declaration be set aside by filing a completed *Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity* (~~Form 1296.77~~form FL-280).

(Subd (b) amended effective January 1, 2003.)

(c) [Creation of court file] Upon receipt of the completed request for hearing, the clerk ~~shall~~must assign a case number and schedule a court date. The court date ~~shall~~must be no earlier than 31 days after the date of filing and no later than 45 days after the date of filing.

(Subd (c) amended effective January 1, 2003.)

(d) [Notice of hearing] The person who is asking that the voluntary declaration of paternity be set aside ~~shall~~must serve, either by personal service or by mail, the request for hearing and a blank *Responsive Declaration to Application to Set Aside Voluntary Declaration of Paternity* (~~Form 1296.78~~form FL-285) on the other person who signed the voluntary declaration of paternity. If the local child support agency is providing services in the case, the person requesting the set aside ~~shall~~must also serve a copy of the request for hearing on the agency.

(Subd (d) amended effective January 1, 2003.)

(e) [Order after hearing] The decision of the court ~~shall~~must be written on the *Order After Hearing on Motion to Set Aside Voluntary Declaration of Paternity* (~~Form 1276.79~~form FL-290). If the voluntary declaration of paternity is set aside, the clerk ~~shall~~must mail a copy of the order to the Department of Child Support Services in order that the voluntary declaration of paternity be purged from the records.

(Subd (e) amended effective January 1, 2003.)

(f) [Use of court file in subsequent proceedings] Pleadings in any subsequent proceedings, including but not limited to proceedings under the Uniform Parentage Act, that involve the parties and child named in the voluntary declaration of paternity ~~shall~~must be filed in the court file that was initiated by the filing of the *Request for Hearing and Application to Set Aside Voluntary Declaration of Paternity* (form FL-280).

(Subd (f) amended effective January 1, 2003.)

Rule 5.350 amended and renumbered effective January 1, 2003; adopted as rule 1280.10 effective July 1, 2000.

Rule ~~1280.11~~5.355. Minimum standards of training for court clerk staff whose assignment includes Title IV-D child support cases

Any court clerk whose assignment includes Title IV-D child support cases ~~shall~~must participate in a minimum of six hours of continuing education annually in federal and state laws concerning child support and related issues.

Rule 5.355 amended and renumbered effective January 1, 2003; adopted as rule 1280.11 effective July 1, 2000.

Rule ~~1280.12~~5.360. Appearance by local child support agency

When a local child support agency is providing services as required by Family Code section 17400, that agency may appear in any action or proceeding that it did not initiate by giving written notice to all parties, on the form titled *Notice Regarding Payment of Support* (~~F~~form ~~1299.55~~FL-632), that it is providing services in that action or proceeding under Title IV-D of the Social Security Act. The agency ~~shall~~must file the original of the notice in the action or proceeding with proof of service by mail on the parties. Upon service and filing of the notice, the court ~~shall~~must not require the local child support agency to file any other notice or pleading before that agency appears in the action or proceeding.

Rule 5.360 amended and renumbered effective January 1, 2003; adopted as rule 1280.12 effective January 1, 2001.

Rule ~~1280.13~~5.365. Procedure for consolidation of child support orders

(a) When an order of consolidation of actions has been made under section 1048(a) of the Code of Civil Procedure in cases in which a local child support agency is appearing under section 17400 of the Family Code, or when a motion to consolidate or combine two or more child support orders has been made under section 17408 of the Family Code, the cases in which those orders were entered ~~shall~~must be consolidated as follows:

(1) (Priority of consolidation) The order consolidating cases that contain child support orders ~~shall~~must designate the primary court file into which the support orders ~~shall~~must be consolidated and ~~shall~~must also designate the court files that are subordinate. Absent an order upon showing of good cause, the cases or child support orders ~~shall~~must be consolidated into a single court file according to the following priority, including those cases or orders initiated or obtained by a local child support agency under division 17 of the Family Code that are consolidated under either section 1048(a) of the Code of Civil Procedure or section 17408 of the Family Code.

(i) If one of the cases or child support orders to be consolidated is in an action for nullity, dissolution, or legal separation brought under division 6 of the Family Code, all cases and orders so consolidated ~~shall~~must be consolidated into that action, which ~~shall~~must be the primary file.

(2) If none of the cases or child support orders to be consolidated is in an action for nullity, dissolution, or legal separation, but one of the child support orders to be consolidated has been issued in an action under the Uniform Parentage Act (Fam. Code, div. 12, pt. 3), all orders so consolidated ~~shall~~must be consolidated into that action, which ~~shall~~must be the primary file.

(3) If none of the cases or child support orders to be consolidated is in an action for nullity, dissolution, or legal separation or in an action under the Uniform Parentage Act, but one of the child support orders to be consolidated has been issued in an action commenced by a *Petition for Custody and Support of Minor Children* (~~Form 1296.80~~ form FL-260), all orders so consolidated ~~shall~~must be consolidated into that action, which ~~shall~~must be the primary file.

(4) If none of the cases or child support orders to be consolidated is in an action for nullity, dissolution, or legal separation or in an action under the Uniform Parentage Act, the case or cases with the higher number or numbers ~~shall~~must be consolidated into the case with the lowest number, which ~~shall~~must be the primary file. Child support orders in cases brought under the Domestic Violence Protection Act (Fam. Code, div. 10, pt. 4) or any similar law may be consolidated under this rule. However, a domestic violence case ~~shall~~must not be designated as the primary file.

(2) (Notice of consolidation) Upon issuance of the consolidation order, the local child support agency ~~shall~~must prepare and file in each subordinate case a *Notice of Consolidation* (~~Form 1299.77~~form FL-920), indicating that the support orders in those actions are consolidated into the primary file. The notice ~~shall~~must state the date of the consolidation, the primary file number, and the case number of each of the cases so consolidated. If the local child support agency was not a participant in the proceeding in which the consolidation was ordered, the court ~~shall~~must designate the party to prepare and file the notice.

(Subd (a) amended effective January 1, 2003.)

(b) [Subsequent filings in consolidated cases] Notwithstanding any other rule, including but not limited to rule 367, upon consolidation of cases with child support orders, all filings in those cases, whether dealing with child support or not, ~~shall~~must occur in the primary court action and ~~shall~~must be filed under that case, caption, and number only. All further orders ~~shall~~must be issued only in the primary action, and no further orders ~~shall~~may be issued in a subordinate court file. All enforcement and modification of support orders in consolidated cases ~~shall~~must occur in the primary court action regardless in which action the order originally issued.

(Subd (b) amended effective January 1, 2003.)

Rule 5.365 amended and renumbered effective January 1, 2003; adopted as rule 1285.13 effective January 1, 2001.

Rule ~~1280.14~~5.370. Party designation in interstate and intrastate cases

When a support action that has been initiated in another county or another state is filed, transferred, or registered in a superior court of this state under the Uniform Interstate Family Support Act (Fam. Code, div. 9, pt. 5, ch. 6, commencing with § 4900), the intercounty support enforcement provisions of the Family Code (div. 9,

pt. 5, ch. 8, art. 9, commencing with § 5600), or any similar law, the party designations in the caption of the action in the responding court ~~shall~~must be as follows:

(Amended effective January 1, 2003.)

(a) [New actions initiated under the Uniform Interstate Family Support Act] The party designation in the superior court of this state, responding to new actions initiated under the Uniform Interstate Family Support Act (Fam. Code, div. 9, pt. 5, ch. 6, commencing with § 4900), ~~shall~~must be the party designation that appears on the first page of the Uniform Support Petition (FL-500/OMB No. 0970-0085) in the action.

(Subd (a) amended effective January 1, 2003.)

(b) [Registered orders under the Uniform Interstate Family Support Act or state law] The party designation in all support actions registered for enforcement or modification ~~shall~~must be the one that appears in the original (earliest) order being registered.

(Subd (b) amended effective January 1, 2003.)

Rule 5.370 amended and renumbered effective January 1, 2003; adopted as rule 1285.14 effective January 1, 2001.

Rule ~~1280.15~~5.375. Procedure for a support obligor to file a motion regarding mistaken identity

(a) [Purpose] This rule applies to a support obligor who claims that support enforcement actions have erroneously been taken against him or her by the local child support agency because of a mistake in the support obligor's identity. This rule sets forth the procedure for filing a motion in superior court to establish the mistaken identity ~~pursuant to~~ under Family Code section 17530 after the support obligor has filed a claim of mistaken identity with the local child support agency and the claim has been denied.

(Subd (a) amended effective January 1, 2003.)

(b) [Procedure for filing motion in superior court] The support obligor's motion in superior court to establish mistaken identity ~~shall~~must be filed on ~~Form1285.10~~form FL-310, *Notice of Motion (Family Law),* with appropriate attachments. The support obligor ~~shall~~must also file as exhibits to the notice of motion a copy of the claim of mistaken identity that he or she filed with the

local child support agency and a copy of the local child support agency's denial of the claim.

(Subd (b) amended effective January 1, 2003.)

Rule 5.375 amended and renumbered effective January 1, 2003; adopted as rule 1280.15 effective January 1, 2001.

Chapter 8. Miscellaneous Rules

Title Five, Special Rules for Trial Courts—Division I, Rules Pertaining to Proceedings Involving Children and Families—Division Ia, Family Law Rules—Chapter 8, Miscellaneous Rules.

Rule ~~1180~~5.400. ~~Postadoption c~~Contact-after-adoption agreement

(a) [Applicability of rule (Fam. Code, §§ 8714, 8714.5, 8714.7; Welf. & Inst. Code, §§ 358.1, 366.26)] This rule applies to any adoption of a child. The adoption petition must be filed under Family Code sections 8714 and 8714.5. If the child is a dependent of the juvenile court, the adoption petition may be filed in that juvenile court and the clerk must open a confidential adoption file for the child, and this file must be separate and apart from the dependency file, with an adoption case number different from the dependency case number. For the purposes of this rule, a "relative" is defined as follows:

(1) An adult related to the child or the child's sibling or half-sibling by blood or affinity, including a relative whose status is preceded by the word "step," "great," "great-great" or "grand"; or

(2) The spouse of any of the persons described in subdivision (a)(1) even if the marriage was terminated by dissolution or the death of the spouse related to the child.

(b) [Contact after adoption ~~A~~agreement ~~for postadoption contact~~ (Fam. Code, § 8714.7)] An adoptive parent or parents, a birth relative or relatives, including a birth parent or parents of a child who is the subject of an adoption petition, and the child may enter into a written agreement permitting postadoption contact between the child and birth relatives. No prospective adoptive parent or birth relative may be required by court order to enter into a ~~postadoption~~ contact-after-adoption agreement.

(Subd (b) amended effective January 1, 2003; previously amended effective July 1, 2001.)

(c) [Court approval; time of decree (Fam. Code, § 8714.7)] If, at the time the adoption petition is granted, the court finds that the agreement is in the best

interest~~s~~ of the child, the court may enter the decree of adoption and grant postadoption contact as reflected in the approved agreement.

(Subd (c) amended effective January 1, 2003.)

(d) [Terms of agreement (Fam. Code, § 8714.7)] The terms of the agreement are limited to the following, although they need not include all permitted terms:

(1) Provisions for visitation between the child and a birth parent or parents;

(2) Provisions for visitation between the child and other identified birth relatives, including siblings or half-siblings of the child;

(3) Provisions for contact between the child and a birth parent or parents;

(4) Provisions for contact between the child and other identified birth relatives, including siblings or half-siblings of the child;

(5) Provisions for contact between the adoptive parent or parents and a birth parent or parents;

(6) Provisions for contact between the adoptive parent or parents and other identified birth relatives, including siblings or half-siblings of the child;

(7) Provisions for the sharing of information about the child with a birth parent or parents;

(8) Provisions for the sharing of information about the child with other identified birth relatives, including siblings or half-siblings of the child;

(9) The terms of any ~~postadoption~~ contact-after-adoption agreement entered into ~~pursuant to~~ under a petition filed under Family Code section 8714 must be limited to the sharing of information about the child unless the child has an existing relationship with the birth relative.

(Subd (d) amended effective January 1, 2003; previously amended effective July 1, 2001.)

(e) [Child a party (Fam. Code, § 8714.7)] The child who is the subject of the adoption petition is a party to the agreement whether or not specified as such.

(1) Written consent by a child 12 years of age or older to the terms of the agreement is required for enforcement of the agreement, unless the court finds by a preponderance of the evidence that the agreement is in the best

interest of the child and waives the requirement of the child's written consent.

(2) If the child has been found by a juvenile court to be described by section 300 of the Welfare and Institutions Code, an attorney must be appointed to represent the child for purposes of participation in and consent to any ~~postadoption~~ contact-after-adoption agreement, regardless of the age of the child. If the child has been represented by an attorney in the dependency proceedings, that attorney must be appointed for the additional responsibilities of this rule. The attorney is required to represent the child only until the adoption is decreed and dependency terminated.

(Subd (e) amended effective January 1, 2003; previously amended effective July 1, 2001.)

(f) [Form and provisions of the agreement (Fam. Code, § 8714.7)] The agreement must be prepared and submitted on Judicial Council form ~~*Postadoption*~~ *Contact After Adoption Agreement* (ADOPT-310) with appropriate attachments.

(Subd (f) amended effective January 1, 2003; previously amended effective July 1, 2001.)

(g) [Report to the court (Fam. Code, § 8715)] The department or agency participating as a party or joining in the petition for adoption must submit a report to the court. The report must include a criminal record check and descriptions of all social service referrals. If a ~~postadoption~~ contact-after-adoption agreement has been submitted, the report must include a summary of the agreement and a recommendation as to whether it is in the best interest of the child.

(Subd (g) amended effective January 1, 2003; previously amended effective July 1, 2001.)

(h) [Enforcement of the agreement (Fam. Code, § 8714.7)] The court that grants the petition for adoption and approves the ~~postadoption~~ contact-after-adoption agreement must retain jurisdiction over the agreement.

(1) Any petition for enforcement of an agreement must be filed on Judicial Council form *Petition for Enforcement, Modification, or Termination of Postadoption Contact Agreement* (ADOPT-315). The form must not be accepted for filing unless completed in full, with documentary evidence attached of participation in, or attempts to participate in, mediation or other dispute resolution.

(2) The court may make its determination on the petition without testimony or an evidentiary hearing and may rely solely on documentary evidence or offers of proof. The court may order compliance with the agreement only if:

(A) There is sufficient evidence of good-faith attempts to resolve the issues through mediation or other dispute resolution; and

(B) The court finds enforcement is in the best interests of the child.

(3) The court must not order investigation or evaluation of the issues raised in the petition unless the court finds by clear and convincing evidence that:

(A) The best interest~~s~~ of the child may be protected or advanced only by such inquiry; and

(B) The inquiry will not disturb the stability of the child's home to the child's detriment.

(4) Monetary damages must not be ordered.

(Subd (h) amended effective January 1, 2003; previously amended effective July 1, 2001.)

(i) [Modification or termination of agreement (Fam. Code, § 8714.7)] The agreement may be modified or terminated by the court. Any petition for modification or termination of an agreement must be filed on Judicial Council form *Petition for Enforcement, Modification, or Termination of Postadoption Contact Agreement* (ADOPT-315). The form must not be accepted for filing unless completed in full, with documentary evidence attached of participation in, or attempts to participate in, mediation or other appropriate dispute resolution.

(1) The agreement may be terminated or modified only if:

(A) All parties, including the child of 12 years or older, have signed the petition or have indicated on the Judicial Council form *Response to Petition for Enforcement, Modification, or Termination of Postadoption Contact Agreement* (ADOPT–320) their consent or have executed a modified agreement filed with the petition; or

(B) The court finds all of the following:

(i) The termination or modification is necessary to serve the best interests of the child;

(ii) There has been a substantial change of circumstances since the original agreement was approved; and

(iii) The petitioner has participated in, or has attempted to participate in, mediation or appropriate dispute resolution.

(2) The court may make its determination without testimony or evidentiary hearing and may rely solely on documentary evidence or offers of proof.

(3) The court may order modification or termination without a hearing if all parties, including the child of 12 years or older, have signed the petition or have indicated on the Judicial Council form *Response to Petition for Enforcement, Modification, or Termination of Postadoption Contact Agreement* (ADOPT–320) their consent or have executed a modified agreement filed with the petition.

(Subd (i) amended January 21, 2003; previously amended effective July 1, 2001.)

(j) [Costs and fees (Fam. Code, § 8714.7)] The fee for filing a *Petition for Enforcement, Modification, or Termination of ~~Postadoption~~ Contact After Adoption Agreement* (ADOPT-315) must not exceed the fee assessed for the filing of an adoption petition. Costs and fees for mediation or other appropriate dispute resolution must be assumed by each party, with the exception of the child. All costs and fees of litigation, including any court-ordered investigation or evaluation, must be charged to the petitioner unless the court finds that a party other than the child has failed, without good cause, to comply with the approved agreement; all costs and fees must then be charged to that party.

(Subd (j) amended effective January 1, 2003; previously amended effective July 1, 2001.)

(k) [Adoption final (Fam. Code, § 8714.7)] Once a decree of adoption has been entered, the court may not set aside the decree, rescind any relinquishment, modify or set aside any order terminating parental rights, or modify or set aside any other orders related to the granting of the adoption petition, due to the failure of any party to comply with the terms of a postadoption contact agreement or any subsequent modifications to it.

Rule 5.400 amended and renumbered effective January 1, 2003; adopted as rule 1180 effective July 1, 1998; amended effective July 1, 2001.

Rule 1401. Definitions; construction of terms

(a) [Definitions (§§ 202(e), 319, 361.5(a)(3), 366(a)(1)(B), 636, 727.3(c)(2), 727.4(d))] As used in these rules, unless the context or subject matter otherwise requires:

(1)–(12) ***

(13) "Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem for a child subject to a juvenile dependency petition" is defined in rule 1448.

~~(13)~~(14) ***

~~(14)~~(15) ***

~~(15)~~(16) ***

~~(16)~~(17) ***

~~(17)~~(18) ***

~~(18)~~(19) ***

~~(19)~~(20) ***

~~(20)~~(21) ***

~~(21)~~(22) ***

~~(22)~~(23) ***

~~(23)~~(24) ***

~~(24)~~(25) ***

~~(25)~~(26) ***

~~(26)~~(27) ***

~~(27)~~(28) ***

(~~28~~)(29) ***

~~(29)~~(30) ***

(Subd (a) amended effective January 1, 2003; previously amended effective july 1, 1992, July 1, 1997, January 1, 1998, January 1, 1999, January 1, 2001, and July 1, 2002.)

(b) *

Rule 1401 amended effective January 1, 2003; amended effective July 1, 2002; adopted effective January 1, 1990; previously amended effective July 1, 1992, July 1, 1997, January 1, 1998, January 1, 1999, and January 1, 2001.

Rule 1403.5. Joint assessment procedure

(a) [Joint assessment requirement (§ 241.1)] Whenever a child appears to come within the description of section 300 and either section 601 or section 602 of the Welfare and Institutions Code, the responsible child welfare and probation departments must conduct a joint assessment to determine which status will serve the best interest of the child and the protection of society.

(1) The assessment must be completed as soon as possible after the child comes to the attention of either department.

(2) Whenever possible, the determination of status must be made before any petition concerning the child is filed.

(3) The assessment report need not be prepared before the petition is filed but must be provided to the court for the hearing as set forth in (e).

(4) If a petition has been filed, on the request of the child, parent, guardian, or counsel, or on the court's own motion, the court may set a hearing for a determination under section 241.1 and order that the joint assessment report be made available as required in (f).

(b) [Proceedings in same county] If the petition alleging jurisdiction is filed in a county in which the child is already a dependent or ward, the child welfare and probation departments in that county must assess the child under a jointly developed written protocol and prepare a joint assessment report to be filed in that county.

(c) [Proceedings in different counties] If the petition alleging jurisdiction is filed in one county and the child is already a dependent or ward in another county, a joint assessment must be conducted by the responsible departments

of each county. If the departments cannot agree on which will prepare the joint assessment report, then the department in the county where the petition is to be filed must prepare the joint assessment report. The joint assessment report must contain the recommendations and reasoning of both the child welfare and the probation departments. The report must be filed at least 5 calendar days before the hearing on the joint assessment in the county where the second petition alleging jurisdictional facts under sections 300, 601 or 602 has been filed.

(d) **[Joint assessment report]** The joint assessment report must contain the joint recommendation of the probation and child welfare departments if they agree on the status that will serve the best interest of the child and the protection of society, or the separate recommendation of each department if they do not agree, and must also include:

(1) A description of the nature of the referral;

(2) The age of the child;

(3) The history of any physical, sexual, or emotional abuse of the child;

(4) The prior record of the child's parents for abuse of this or any other child;

(5) The prior record of the child for out-of-control or delinquent behavior;

(6) The parents' cooperation with the child's school;

(7) The child's functioning at school;

(8) The nature of the child's home environment;

(9) The history of involvement of any agencies or professionals with the child and his or her family;

(10) Any services or community agencies that are available to assist the child and his or her family;

(11) A statement by any counsel currently representing the child; and

(12) A statement by any Court Appointed Special Advocate currently appointed for the child.

(e) **[Hearing on joint assessment]** If the child is detained, the hearing on the joint assessment report must occur as soon as possible after or concurrent with the detention hearing, but no later than 15 court days after the order of detention and prior to the jurisdictional hearing. If the child is not detained, the hearing on the joint assessment must occur prior to the jurisdictional hearing and within 30 days of the date of the petition. The juvenile court must conduct the hearing and determine which type of jurisdiction over the child best meets the child's unique circumstances.

(f) **[Notice and participation]** At least 5 calendar days before the hearing, notice of the hearing and copies of the joint assessment report must be provided to the child, the child's parent or guardian, all attorneys of record, any Court Appointed Special Advocate, and any other juvenile court having jurisdiction over the child. The notice must be directed to the judicial officer or department that will conduct the hearing.

(g) **[Conduct of hearing]** All parties and their attorneys must have an opportunity to be heard at the hearing. The court must make a determination regarding the appropriate status of the child and state its reasons on the record or in a written order.

(h) **[Notice of decision after hearing]** Within 5 calendar days after the hearing, the clerk of the juvenile court must transmit the court's findings and orders to any other juvenile court with current jurisdiction over the child.

(i) **[Local protocols]** On or before January 1, 2004, the probation and child welfare departments of each county must adopt a written protocol for the preparation of joint assessment reports, including procedures for resolution of disagreements between the probation and child welfare departments, and submit a copy to the Judicial Council.

Rule 1403.5 adopted effective January 1, 2003.

Rule 1429.3. Orders after filing of petition under section 601 or 602

(a) **[Restraining orders (§ 213.5)]** After a petition has been filed under section 601 or 602, and until the petition is dismissed or wardship is terminated, the court may issue restraining orders as provided in rule 1429.5. The restraining orders ~~shall~~ must be prepared on Judicial Council form *Restraining Order—Juvenile* (JV-250).

(Subd (a) amended effective January 1, 2003.)

(b) [Custody and visitation (§ 726.5)] At any time while the child is a ward of the juvenile court or at the time wardship is terminated, the court may issue an order determining custody of, or visitation with, the child.

(1) *(Modification of existing court orders—new case filings)* The order of the juvenile court ~~shall~~ must be filed in an existing nullity, dissolution, legal separation, or paternity proceeding. If no custody proceeding is filed or is pending, the order may be used as the sole basis to open a file.

(2) *(Preparation and transmission of order)* The order ~~shall~~ must be prepared on Judicial Council form *Custody Order—Juvenile* (JV-200). The court may direct the social worker, parent, child's attorney, or clerk to:

(A) Prepare the order for the court's signature; and

(B) Transmit the order within 10 calendar days after the order is signed to the superior court of the county in which a custody proceeding has already been commenced or, if none, to the superior court of the county in which the parent who has been given custody resides. If the parent to whom custody has been given resides in another state or country, the order ~~shall~~ must be filed in the county of the juvenile court issuing the order.

(3) *(Procedures for filing order— receiving court)* Upon receipt of the juvenile court custody order, the superior court clerk of the receiving county ~~shall~~ must immediately file the juvenile court order in the existing proceeding, or ~~shall~~ must immediately open a file, without a filing fee, and assign a case number.

(4) *(Endorsed filed copy—clerk's certificate of mailing)* Within 15 court days after receiving the order, the clerk of the receiving court ~~shall~~ must send by first-class mail an endorsed filed copy of the order showing the case number of the receiving court to (i) the persons whose names and addresses are listed on the order, and (ii) the originating juvenile court, with a completed clerk's certificate of mailing, for inclusion in the child's juvenile court file.

(5) *(Order determining custody— continuation of jurisdiction)* If the court orders custody to a parent subject to the jurisdiction of the court with services to one or both parents, the court may direct the order be prepared and filed in the same manner as described in paragraphs (1)–(4) of this subdivision.

(Subd (b) amended effective January 1, 2003.)

(c) [Appointment of a legal guardian of the person (§ 728)] At any time during wardship of a person under 18 years, the court may appoint a guardian, or may terminate or modify a previously established guardianship, in accordance with the requirements in rule 1496.2. ~~If the probation officer or the child's attorney recommends or requests by filing Judicial Council forms JV-600 and JV-740 that a guardianship of the person be established, the court shall set a hearing and order notice under section 1511 of the Probate Code.~~

~~(1) If the court determines that appointment of a guardian is necessary or convenient, and is consistent with the rehabilitation and protection of the child and with public safety, the court shall appoint a guardian of the person and order that letters of guardianship (form JV-325) issue as specified in the Probate Code.~~

~~(2) If the court appoints a guardian, the court may continue wardship and conditions of probation or terminate wardship~~.

~~(3) Proceedings to modify or terminate a guardianship established under section 728 shall be heard in juvenile court~~.

(Subd (c) amended effective January 1, 2003.)

~~**(d) [Termination or modification of previously established guardianships (§ 728)]** At any time after the filing of a petition under section 601 or 602 and until the petition is dismissed or wardship is terminated, the court may terminate or modify a guardianship of the person previously established by the juvenile court or the probate court. If the probation officer recommends to the court by filing Judicial Council forms JV-600 and JV-740 that an existing guardianship be modified or terminated, the court shall order the appropriate county agency to file the recommended motion.~~

~~(1) The hearing on the motion may be held simultaneously with any regularly scheduled hearing regarding the child. Notice requirements under Probate Code section 1511 shall apply.~~

~~(2) If the court terminates or modifies a previously established probate guardianship, the court shall provide notice of the order to the probate court that made the original appointment. The clerk of the probate court shall file the notice in the probate file and send a copy of the notice to all parties of record identified in that file.~~

(Subd (d) repealed effective January 1, 2003.)

Rule 1429.3 amended effective January 1, 2003; adopted effective January 1, 2000.

Rule 1429.5. Restraining orders

(a) [Court's authority (§ 213.5)] After a petition has been filed under section 300, 601, or 602, and until the petition is dismissed or dependency or wardship is terminated, or the ward is no longer on probation, the court may issue restraining orders as provided in section 213.5.

(b) [Application (§§ 213.5, 304)] Application for restraining orders may be made orally at any scheduled hearing regarding the child who is the subject of a petition under section 300, 601, or 602, or may be made by written application, or may be made on the court's own motion. The w~~W~~ritten application ~~shall~~ must be submitted on:

(1) Judicial Council forms Juvenile Dependency Petition (JV-100) and Application and Declaration for Restraining Order (JV-245); or

(2) Judicial Council forms Juvenile Wardship Petition (JV-600) and Application and Declaration for Restraining Order (JV-245).

(Subd (b) amended effective January 1, 2003.)

(c) [Protected children (§ 213.5(a) and (b))] Restraining orders may be issued to protect any of the following children:

(1) A child who is the subject of the dependency petition or who is declared a dependent;

(2) Another child in the household of the child named in (1); and

(3) A child who is the subject of a delinquency petition or who is declared a ward.

(Subd (c) adopted effective January 1, 2003.)

(d) [Other protected persons (§ 213.5(a))] If the court grants ex parte orders or orders after hearing that protect any child listed in (c)(1) or (2), then the court may issue orders protecting any parent, legal guardian, or current caregiver of the child listed in (c)(1), whether or not that child resides with that parent, legal guardian, or current caregiver.

(Subd (d) adopted effective January 1, 2003.)

(e) [Available orders and restrained persons (§ 213.5(a), (b), and (d)–(f))] The court may issue, either ex parte or after notice and hearing, restraining orders that:

(1) Enjoin any person from molesting, attacking, striking, sexually assaulting, stalking, or battering any of the persons listed in (c) or (d);

(2) Exclude any person from the dwelling of the person who has care, custody, and control of the child named in (c)(1) or (c)(3). This order may be issued for the time and on the conditions that the court determines, regardless of which party holds legal or equitable title or is the lessee of the residence or dwelling, upon a showing that:

(A) The party who will stay in the dwelling has a right under color of law to possession of the premises,

(B) The party to be excluded has assaulted or threatened to assault the other party or any other person under the care, custody, and control of the other party, or any minor child of the parties or of the other party, and

(C) Physical or emotional harm would otherwise result to the other party, to any person under the care, custody and control of the other party, or to any minor child of the parties or of the other party;

(3) Enjoin any person from behavior, including contacting, threatening, or disturbing the peace of the persons named in (c) or (d), as necessary to effectuate orders under (e)(1) or (e)(2); and

(4) Enjoin any delinquent child or any child for whom a section 601 or 602 petition has been filed from contacting, threatening, stalking, or disturbing the peace of any person:

(A) Whom the court finds to be at risk from the conduct of the child; or

(B) With whom association would be detrimental to the child.

(Subd (e) adopted effective January 1, 2003.)

~~(c)~~(f) [Ex parte applications—procedure (§ 213.5(a)–(c), and (f))] The ~~written~~ application may be submitted ex parte, and the court may grant the petition and issue a temporary order~~, or set the matter for hearing~~. The matter may be heard simultaneously with any scheduled hearing regarding the child who is the subject of the section 300, 601, or 602 petition. Notice of the ex parte proceeding is required as set forth under rule 379.

(1) In determining whether or not to issue the temporary restraining order ex parte, the court ~~shall~~ must consider all documents submitted with the application and may review the contents of the juvenile court file regarding the child.

~~(2) At a hearing, proof may be by the application and any attachments, additional declarations or documentary evidence, the contents of the juvenile court file, testimony, or any combination.~~

~~(3)~~(2)The ~~T~~ttemporary ~~R~~rrestraining ~~O~~oorder ~~shall~~ must be prepared on Judicial Council form *Restraining Order—Juvenile (CLETS)* (JV-250) and must state on its face the date of expiration of the order.

(Subd (f) amended and relettered effective January 1, 2003; adopted as subd (c) effective January 1, 2000.)

(g) [Order to show cause and reissuance (§ 213.5(c))] When a temporary restraining order is granted without notice, the matter must be made returnable on an order to show cause why the order should not be granted, no later than 15 days or, on a showing of good cause, 20 days from the date the temporary restraining order is granted.

(1) On the motion of the person seeking the restraining order or on its own motion, the court may shorten the time for service on the person to be restrained of the order to show cause.

(2) When a temporary restraining order is granted without notice, and service on the restrained person has not been accomplished, or when the hearing must be continued for some other reason, the court may reissue the temporary restraining order pursuant to the procedures in section 527 of the Code of Civil Procedure. Judicial Council form *Application and Order for Reissuance of Order to Show Cause* (FL-306/JV-251) must be used for this purpose.

(Subd (g) adopted effective January 1, 2003.)

(d)(h) [Hearing on application for restraining order (§ 213.5(d) and (f))] ~~The hearing on the application for a restraining order for up to one year during the dependency or wardship of the child or for up to three years on the termination of dependency or wardship shall be conducted as described in subdivision (c).~~ The court may issue, upon notice and hearing, any of the orders in (e). The restraining order must remain in effect for a period of time determined by the court, but in any case not more than three years.

(1) The matter may be heard simultaneously with any scheduled hearing regarding the child who is the subject of the section 300, 601, or 602 petition.

(2) Proof may be by the application and any attachments, additional declarations or documentary evidence, the contents of the juvenile court file, testimony, or any combination of these.

(3) The order after hearing ~~shall~~ must be prepared on Judicial Council form *Restraining Order—Juvenile (CLETS)* (JV-250) and must state on its face the date of expiration of the order.

(Subd (h) amended and relettered effective January 1, 2003; adopted as subd (d) effective January 1, 2000.)

(i) [Criminal records search (§ 213.5(k) and Stats. 2001, ch. 572, § 7)]

(1) Except as provided in (3), before any hearing on the issuance of a restraining order the court must ensure that a criminal records search is or has been conducted as described in section 6306(a) of the Family Code. Before deciding whether to issue a restraining order, the court must consider the information obtained from the search.

(2) If the results of the search indicate that an outstanding warrant exists against the subject of the search, or that the subject of the search is currently on parole or probation, the court must proceed under section 213.5(k)(3) of the Welfare and Institutions Code.

(3) The requirements of (1) and (2) must be implemented in those courts identified by the Judicial Council as having resources currently available for these purposes. All other courts must implement the requirements to the extent that funds are appropriated for this purpose in the annual Budget Act.

(Subd (i) adopted effective January 1, 2003.)

(j) [Termination or extension of restraining order (§ 213.5(d))]

(1) The restraining order may be terminated by the court before the expiration date listed on its face.

(2) The restraining order may be extended beyond the expiration date listed on its face by mutual consent of all parties to the order, or by further order of the court on motion of any party to the order.

(Subd (j) adopted effective Janaury 1, 2003.)

(k) [Violation (§ 213.5(h))] Any willful and knowing violation of any order, temporary order, or order after hearing granted pursuant to section 213.5 is a misdemeanor, punishable under section 273.65 of the Penal Code.

(Subd (k) adopted effective January 1, 2003.)

(l) [Restraining orders issued by other courts (§ 304)] If a restraining order has been issued by the juvenile court pursuant to section 213.5, no court other than a criminal court may issue any order contrary to the juvenile court's restraining order.

(Subd (l) adopted effective January 1, 2003.)

Rule 1429.5 amended effective January 1, 2003; adopted effective January 1, 2000.

Rule 1432. Petition for modification

(a)–(e) ***

(f) [Conduct of hearing (§ 388)] The petitioner requesting the modification under section 388 has the burden of proof. If the request is for the removal of the child from the child's home, the petitioner must show by clear and convincing evidence that the grounds for removal in section 361~~(b)~~(c) exist. If the request is for removal to a more restrictive level of placement, the petitioner must show by clear and convincing evidence that the change is necessary to protect the physical or emotional well-being of the child. All other requests require a preponderance of the evidence to show that the child's welfare requires such a modification.

The hearing must be conducted as a disposition hearing under rules 1455 and 1456 if: (1) the request is for removal from the home of the parent or guardian or to a more restrictive level of placement or (2) there is a due process right to

confront and cross-examine witnesses. Otherwise, proof may be by declaration and other documentary evidence, or by testimony, or both, at the discretion of the court.

(Subd (f) amended effective January 1, 2003; previously amended effective July 1, 2000 and July 1, 2002.)

(g) ***

Rule 1432 amended effective January 1, 2003; adopted effective January 1, 1991; previously amended effective January 1, 1992, July 1, 1995, July 1, 2000, and July 1, 2002.

Rule 1432.5. Psychotropic medications

(a)–(g) * * *

(h) [Local ~~protocol~~ forms] The Judicial Council form Application for Order for Psychotropic Medication—Juvenile (JV-220) and Opposition to Application for Order for Psychotropic Medication—Juvenile (JV-220A) must be filed with the court. Additional information may be provided to the court through the use of ~~may be supplemented with~~ local ~~protocols~~ ~~and~~ forms that are consistent with this rule ~~must be submitted to the Judicial Council for approval for use in that county~~.

(Subd (h) amended effective January 1, 2003.)

(i) * * *

Rule 1432.5 amended effective January 1, 2003; adopted effective January 1, 2001.

Rule 1438. Attorneys for parties (§§ 317, 317.6)

(a) [Local rules] On or before January 1, 2002, the superior court of each county must amend its local rules regarding the representation of parties in dependency proceedings.

(1) ***

(2) The amended rules must address the following as needed:

(A)–(G) ***

(H) Procedures for appointment of a Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem, who may be an attorney or a CASA, in cases in which a prosecution is initiated under the Penal Code arising from neglect or abuse of the child.

(3) ***

(Subd (a) amended effective January 1, 2003; previously amended effective July 1, 2001.)

(b) [Attorneys for children] Appointment of counsel is required for a child who is the subject of a petition under section 300, and is unrepresented by counsel, unless the court finds that the child would not benefit from the appointment of counsel.

(1)–(2) ***

(3) If the court finds that the child would not benefit from representation by counsel, the court must appoint a Court Appointed Special Advocate for the child, to serve as the CAPTA guardian ad litem, as required in section 326.5.

(Subd (b) amended effective January 1, 2003; adopted effective July 1, 2001.)

(c)–(d) ***

(e) [Court Appointed Special Advocate as CAPTA guardian ad litem (§ 326.5)] If the court makes the findings as outlined in (b), and does not appoint an attorney to represent the child, the court must appoint a Court Appointed Special Advocate (CASA) as the CAPTA guardian ad litem of the child.

(1) ***

(2) The caseload of a CASA volunteer acting as a CAPTA guardian ad litem must be limited to 10 cases. A case may include siblings, absent a conflict.

(3)–(4) ***

(Subd (e) amended effective January 1, 2003; adopted effective July 1, 2001.)

(f) [Interests of the child] At any time following the filing of a petition under section 300 and until juvenile court jurisdiction is terminated, any interested

person may advise the court of information regarding an interest or right of the child to be protected or pursued in other judicial or administrative forums.

(1) ***

(2) If the attorney for the child, or a Court Appointed Special Advocate (CASA) acting as a CAPTA guardian ad litem, learns of any such interest or right, the attorney or CASA must notify the court immediately and seek instructions from the court as to any appropriate procedures to follow.

(3) If the court determines that further action on behalf of the child is required to protect or pursue any interests or rights, the court must appoint an attorney for the child if the child is not already represented by counsel, and do one or all of the following:

(A)–(B) ***

(C) Appoint a guardian ad litem for the child, who may be the CASA already appointed as a CAPTA guardian ad litem, or a person who will act only if required to initiate appropriate action; or

(D) ***

(Subd (f) amended effective January 1, 2003; adopted as subd (d) effective January 1, 1996; previously amended and relettered effective July 1, 2001.)

Rule 1438 amended effective January 1, 2003; adopted effective January 1, 1996; previously amended effective July 1, 1999 and July 1, 2001.

Rule 1448. Child Abuse Prevention and Treatment Act (CAPTA) guardian ad litem for a child subject to a juvenile dependency petition

(a) **[Authority]** This rule is adopted under Welfare and Institutions Code section 326.5.

(b) **[Applicability]** The definition of the role and responsibilities of a CAPTA guardian ad litem in this rule applies exclusively to juvenile dependency proceedings and is distinct from the definitions of guardian ad litem in all other juvenile, civil, and criminal proceedings. No limitation period for bringing an action based upon an injury to the child commences running solely by reason

of the appointment of a CAPTA guardian ad litem under Welfare and Institutions Code section 326.5 and this rule.

(c) [Appointment] A CAPTA guardian ad litem must be appointed for every child who is subject to a juvenile dependency petition under Welfare and Institutions Code section 300. An attorney appointed under rule 1438 will serve as the child's CAPTA guardian ad litem under Welfare and Institutions Code section 326.5. If the court finds that the child would not benefit from the appointment of counsel, the court must appoint a Court Appointed Special Advocate (CASA) to serve as the child's CAPTA guardian ad litem. The court must identify on the record the person appointed as the child's CAPTA guardian ad litem.

(d) [General duties and responsibilities] The general duties and responsibilities of a CAPTA guardian ad litem are:

(1) To obtain firsthand a clear understanding of the situation and needs of the child; and

(2) To make recommendations to the court concerning the best interest of the child as appropriate under (e) and (f).

(e) [Attorney as guardian ad litem] The specific duties and responsibilities of the child's court-appointed attorney who is appointed to serve as the child's CAPTA guardian ad litem are set forth in Welfare and Institutions Code section 317(e) and rule 1438.

(f) [CASA as CAPTA guardian ad litem] The specific duties and responsibilities of the child's CASA who is appointed to serve as the child's CAPTA guardian ad litem are set forth in Welfare and Institutions Code section 102(c) and rule 1424.

Rule 1448 adopted effective January 1, 2003.

Rule 1494. Required determinations

(a) [Felony-misdemeanor (§ 702)] Unless determined previously, the court ~~shall~~ must find~~,~~ and note in the minutes~~,~~ the degree of the offense committed by the ~~child~~ youth, and whether it would be a felony or a misdemeanor had it been committed by an adult.

(Subd (a) amended effective January 1, 2003.)

(b) [Physical confinement (§ 726)] If the ~~child~~ youth is declared a ward under section 602, and ordered removed from the physical custody of a parent or guardian, the court ~~shall~~ must specify~~,~~ and note in the minutes~~,~~ the maximum period of confinement under section 726.

(Subd (b) amended effective January 1, 2003.)

~~(c) [Youth Authority commitments]~~ ~~Order of commitment to the Youth Authority shall specify if the offense is one listed in section 707(b).~~

(Subd (c) repealed effective January 1, 2003.)

Rule 1494 amended effective January 1, 2003; adopted effective January 1, 1991; previously amended effective January 1, 2001.

Rule 1494.5. Youth Authority Commitments

If the court orders the youth committed to the California Youth Authority:

(a) The court must complete Judicial Council form JV-732, *Commitment to the California Youth Authority*.

(b) The court must specify whether the offense is one listed in section 707(b) of the Welfare and Institutions Code.

(c) The court must order that the probation department forwards to the Youth Authority all required medical information, including previously executed medical releases.

(d) If the youth is taking a prescribed psychotropic medication, the Youth Authority may continue to administer the medication for up to 60 days, provided that the youth is examined by a physician upon arrival at the facility, and the physician recommends that the medication continue.

(e) The court must provide to the Youth Authority information regarding the youth's educational needs, including the youth's current individualized education program if one exists. To facilitate this process, the court must ensure that the probation officer communicates with appropriate educational staff.

Rule 1494.5 adopted effective January 1, 2003.

Rule 1496. Reviews and permanency planning hearings

(a) [Six-month status review hearings (§§ ~~727.3~~ 727.2, 11404.1)] A status review hearing must be conducted no less frequently than once every six months from the date the ward entered foster care, for any ward removed from the custody of his or her parent or guardian under section 726 and placed under section 727. The court may consider the hearing at which the initial order for placement is made as the first status review hearing.

(1) (*Consideration of reports (§ ~~727.3~~ 727.2(d)*) The court ~~shall~~ must review and consider the social study report ~~of~~ and updated case plan submitted by the probation officer, and ~~of~~ the report submitted by any court-appointed special advocate, as well as any other reports filed with the court pursuant to section ~~727.3(g)~~ 727.2(d).

(2) (*Return of child if not detrimental (§ ~~727.3~~ 727.2(f)*) At any status review hearing prior to the first permanency hearing, the court must order the return of the ward to the parent or guardian unless it finds the probation department has established by a preponderance of evidence that return would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the ward. The probation department ~~shall have~~ has the burden of establishing that detriment. ~~The failure of the child to participate in court-ordered treatment programs shall be prima facie evidence of detriment.~~ In making its determination, the court must review and consider all reports submitted to the court, and must consider the efforts and progress demonstrated by the child and the family and the extent to which the minor availed himself or herself of the services provided.

(3) (*Findings and orders (§ ~~727.3~~ 727.2(d)*) The court ~~shall~~ must consider the safety of the ward and make findings and orders that determine the following:

(A) The continuing necessity for and appropriateness of the placement~~s.~~;

(B) The extent of the probation department's compliance with the case plan in making reasonable efforts to safely return the child to the child's home and to complete whatever steps are necessary to finalize the permanent placement of the child;

(C) The extent of progress that has been made by the child and parent or guardian toward alleviating or mitigating the causes necessitating placement in foster care; ~~and~~

(D) The likely date by which the child may be returned to and safely maintained in the home or placed for adoption, legal guardianship, or another permanent plan.;and

(E) In the case of a child who is 16 years of age or older, the court ~~shall~~ must determine the services needed to assist the child in making the transition from foster care to independent living.

(4) The determinations required by (a)(3) must be made on a case-by-case basis, and the court must reference, in its written findings, the probation officer's report and any other evidence relied upon in reaching its decision.

(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 1998, and January 1, 2001.)

(b) [Permanency planning hearings (§§ 727.2, 727.3, 11404.1)] A permanency planning hearing for any ward who has been removed from the custody of a parent or guardian and not returned at a previous review hearing must be held within 12 months of the date the ward entered foster care and periodically thereafter, but no less frequently than once every 12 months while the ward remains in placement. However, when no reunification services are offered to the parents or guardians under section 727.2(b), the first permanency planning hearing must occur within 30 days of disposition.

(1) (*Consideration of reports (§ 727.3)*) The court ~~shall~~ must review and consider the social study report ~~of~~ and updated case plan submitted by the probation officer~~,~~ and ~~of~~ the report submitted by any court-appointed special advocate, as well as any other reports filed with the court pursuant to section ~~727.3(g)~~ 727.3(a)(2).

(2) (*Findings and orders*) At each permanency planning hearing the court ~~shall~~ must ~~also~~ consider the safety of the ward and make findings and orders regarding the following:

(A) The continuing necessity for and appropriateness of the placement;

(B) The extent of the probation department's compliance with the case plan in making reasonable efforts to safely return the child to the child's home and to complete whatever steps are necessary to finalize the permanent placement of the child; ~~and~~

(C) The extent of progress that has been made by the child and parent or guardian toward alleviating or mitigating the causes necessitating placement in foster care~~.~~; and

(D) The permanent plan for the child, as described in section (3), below.

(3) (*Selection of a permanent plan (§ ~~727.3(f)(1)~~ 727.3(b)*) At the first permanency planning hearing, the court ~~shall~~ must select a permanent plan ~~of return home, or another permanent plan consistent with sections 727.3 (f) (k)~~. At subsequent permanency planning hearings, the court ~~shall~~ must either make a finding that the current permanent plan is appropriate or select a different permanent plan, including returning the child home, if appropriate. The court must choose from one of the following permanent plans, which are, in order of priority:

(A) A permanent plan that immediately returns the child to the physical custody of the parent or guardian. This plan must be the permanent plan unless no reunification services were offered under section 727.2(b), or unless the court finds that the probation department has established by a preponderance of evidence that return would create a substantial risk of detriment to the safety, protection, or physical or emotional well being of the ward. The probation department has the burden of establishing that detriment. In making its determination, the court must review and consider all reports submitted to the court, and must consider the efforts or progress, or both, demonstrated by the child and family and the extent to which the minor availed himself or herself of the services provided.

(B) A permanent plan of return of the child to the physical custody of the parent or guardian, after six additional months of reunification services. The court may only order this plan if the court finds that there is a substantial probability that the child will be able to return home within 18 months of the date of initial removal.

(C) A permanent plan of adoption. When this plan is identified, the court must order that a hearing under section 727.31 be held within 120 days.

(D) A permanent plan of legal guardianship. When this plan is ordered, the court must set a hearing pursuant to the procedures described in section 728 and rule 1496.2.

(E) A permanent plan of placement with a fit and willing relative. When this plan is ordered, the court must specify that the minor will be placed with the appropriate relative on a permanent basis.

(F) A permanent plan of placement in a planned permanent living arrangement. The court may order this permanent plan only after considering, and ruling out, each of the other permanent plan options listed above. If, after doing so, the court concludes that a planned permanent living arrangement is the most appropriate permanent plan for the child, it must also enter a finding, by clear and convincing evidence, that there is a compelling reason, as defined in section 727.3(c), for determining that a plan of termination of parental rights and adoption is not in the best interest of the child. When a planned permanent living arrangement is ordered, the court must specify the type of placement. The court must also specify the goal of the placement, which may include, but is not limited to, a goal of the child returning home, emancipation, guardianship, or permanent placement with a relative.

(4) *(Involvement of parents or guardians)* If the child has a continuing involvement with his or her parents or legal guardians, they must be involved in the planning for permanent placement. The permanent plan order must include an order regarding the nature and frequency of visitation with the parents or guardians.

(Subd (b) amended effective January 1, 2003; adopted effective January 1, 2001.)

(c) [Post-permanency status review hearings (§ ~~727.3(e)~~ 727.2] A post-permanency status review hearing ~~shall~~ must be conducted for wards in placement annually, six months after each permanency planning hearing.

(1) (*Consideration of reports (§ ~~727.3~~ 727.2(d)*) The court ~~shall~~ must review and consider the social study report ~~of~~ and updated case plan submitted by the probation officer, and ~~of~~ the report submitted by any court-appointed special advocate, as well as any other reports filed with the court ~~pursuant to~~ under section ~~727.3(g)~~ 727.2(d).

~~(2) (*Return of child if not detrimental (§ 727.3)*) The court must order the return of the ward to the parent or guardian unless it finds the probation department has established by a preponderance of evidence that return would create a substantial risk of detriment to the safety, protection, or physical or emotional well-being of the ward. The probation department shall have the burden of establishing that detriment. The failure of the~~

~~child to participate in court-ordered treatment programs shall be prima facie evidence of detriment.~~

~~(3)~~(2) (*Findings and orders*) At each post-permanency status review hearing the court ~~shall~~ must ~~make a finding about whether the current permanent plan continues to be appropriate for the ward. The court shall also~~ consider the safety of the ward and make findings and orders regarding the following:

(A) Whether the current permanent plan continues to be appropriate. If not, the court must select a different permanent plan, including returning the child home, if appropriate. The court must not order the permanent plan of returning home after six more months of reunification services, as described in (b)(3)(B), unless it has been 18 months or less since the date the child was removed from home;

~~(A)~~(B) The continuing necessity for and appropriateness of the placement; and

~~(B)~~(C) The extent of the probation department's compliance with the case plan in making reasonable efforts to complete whatever steps are necessary to finalize the permanent ~~placement~~ plan for ~~of~~ the child.

(Subd (c) amended effective January 1, 2003; adopted effective January 1, 2001.)

(d) [Notice of hearings; service; contents (§§ ~~727.3,~~ 727.4)] Not earlier than 30 nor less than 15 calendar days before each hearing date the petitioner or the clerk ~~shall~~ must serve written notice on all persons required to receive notice under rule 1407, as well as the child's present custodian, any court-appointed special advocate, and the counsel of record. The notice of hearing ~~shall~~ must be served by personal service or by first class mail or certified mail, addressed with the last known address of the person to be notified. Judicial Council form *Notice of Hearing—Juvenile Wardship Proceeding* (JV-625) may be used. Proof of notice must be filed with the court.

(1) The notice ~~shall~~ must contain the information required by rule 1407, the nature of the hearing, and any recommended change in custody or status~~, and~~.

(2) The notice must include a statement that the child and the parent or guardian have a right:

(A) To be present at the hearing;

(B) To be represented by counsel at the hearing and, where applicable, to be notified of the right to and the procedure for obtaining appointed counsel; and

(C) To present evidence regarding the proper disposition of the case.

~~(2)~~(3) The notice to the present custodian of the child ~~shall~~ must indicate that the custodian may:

(A) Be present at the hearing; and

(B) Submit written material the custodian considers relevant.

(Subd (d) amended effective January 1, 2003; adopted effective January 1, 2001.)

(e) [Report (§§ 706.5, 706.6, 727.2(c), ~~727.3(f),~~ 727.3(a)(1), 727.4(b))] Before each hearing described above, the probation officer ~~shall~~ must ~~make an~~ investigat~~ion~~e and prepare a social study report, including an updated case plan, that ~~shall~~ must include all of the information required in sections 706.5, 706.6, 727.2, and 727.3~~, and 727.4~~. The report ~~shall~~ must contain recommendations for court orders and ~~the reasons~~ must document the evidentiary basis for those recommendations.

At least 10 calendar days before each hearing, the petitioner ~~shall~~ must file the report and provide copies of the report to the ward, the parent or guardian, all attorneys of record, and any court-appointed special advocate.

(Subd (e) amended effective January 1, 2003; adopted as subd (b) effective January 1, 1991; previously amended effective January 1, 1998; previously amended and relettered effective January 1, 2001.)

(f) [Hearing by administrative panel (§§ ~~727.3(d)~~ 727.2(h) and 727.4(d)(7))] The status review hearings described in subdivisions (a) and (c) above may be conducted by an administrative review panel, provided:

(1) The ward, parent or guardian, and all those entitled to notice under section 727.4 may attend;

(2) Proper notice is provided;

(3) The panel has been appointed by the presiding judge of the juvenile court and includes at least one person who is not responsible for the case

management of, or delivery of services to, the ward or the parent or guardian; and

(4) The panel makes findings as required by ~~subsection~~ subdivision (a)(3) or (c)(3) above and submits them to the juvenile court for approval and inclusion in the court record.

(Subd (f) amended effective January 1, 2003; adopted effective January 1, 2001.)

Rule 1496 amended effective January 1, 2003; adopted effective January 1, 1991; previously amended effective January 1, 1998 and January 1, 2001.

Rule 1496.2. Appointment of legal guardians for wards of the juvenile court; modification or termination of guardianship

(a) **[Proceedings in juvenile court (§728)]** Proceedings for the appointment of a legal guardian for a minor who is a ward of the juvenile court under Welfare and Institutions Code section 725(b) may be held in the juvenile court.

(b) **[Recommendation for guardianship (§728(c))]** On the recommendation of the probation officer supervising the minor, the motion of the attorney representing the child, or the court's own motion and order that a legal guardian should be appointed for the minor, the court must set a hearing to consider the establishment of a legal guardianship and must order the probation officer to prepare an assessment that includes:

(1) A review of the existing relationship between the minor and the proposed guardian;

(2) A summary of the child's medical, developmental, educational, mental, and emotional status;

(3) A social history of the proposed guardian, including a screening for criminal records and any prior referrals for child abuse or neglect;

(4) An assessment of the ability of the proposed guardian to meet the child's needs and the proposed guardian's understanding of the legal and financial rights and responsibilities of guardianship; and

(5) A statement confirming that the proposed guardian has been provided with a copy of Judicial Council form *Guardianship Pamphlet* (JV-350) or *Guardianship Pamphlet (Spanish)* (JV-355).

(c) **[Forms]** The probation officer or child's attorney may use Judicial Council forms *Juvenile Wardship Petition* (JV-600) and *Petition to Modify Previous Orders—Change of Circumstance*s (JV-740) to request that a guardianship hearing be set.

(d) **[Notice (§728(c))]** The clerk must provide notice of the hearing to the child, the child's parents, and other individuals as required by Probate Code section 1511.

(e) **[Conduct of hearing]** The court must read and consider the assessment prepared by the probation officer and any other evidence. The preparer of the assessment must be available for examination by the court or any party to the proceedings.

(f) **[Findings and orders]** If the court finds that establishment of a legal guardianship is necessary or convenient, and consistent with the rehabilitation and protection of the minor and with public safety, the court must appoint a legal guardian and order the clerk to issue letters of guardianship (Judicial Council form *Letters of Guardianship (Juvenile)* (JV-325).)

(1) The court may issue orders regarding visitation and contact between the minor and a parent or other relative.

(2) Upon the appointment of a legal guardian, the court may continue juvenile court wardship and supervision or may terminate wardship.

(g) **[Modification or termination of the guardianship, or appointment of a co-guardian or successor guardian]** A petition to terminate a guardianship established by the juvenile court, to appoint a co-guardian or successor guardian, or to modify or supplement orders regarding the guardianship must be filed and heard in juvenile court. The procedures described in rule 1432 must be followed, and Judicial Council forms *Juvenile Wardship Petition* (JV-600) and *Petition to Modify Previous Orders—Change of Circumstances* (JV-740) must be used. The hearing on the motion may be held simultaneously with any regularly scheduled hearing regarding the child.

Rule 1496.2 adopted effective January 1, 2003.

Rule 1496.3. Termination of parental rights for child in foster care for 15 of the last 22 months

(a) **[Requirement (§§ 727.32(a), 16508.1]** Whenever a child has been declared a ward and has been in any foster care placement for 15 of the most recent 22 months, the probation department must follow the procedures described in Welfare and Institutions Code section 727.31 to terminate the parental rights of the child's parents, unless the probation department has documented in the probation file a compelling reason, as defined in Welfare and Institutions Code section 727.3(c), for determining that termination of parental rights would not be in the child's best interest, or unless the probation department has not provided the family with reasonable efforts necessary to achieve reunification.

(1) If the probation department sets a hearing pursuant to Welfare and Institutions Code section 727.31, it must also make efforts to identify an approved family for adoption.

(2) If the probation department has determined that a compelling reason exists, it must document that reason in the case file. The documentation may be a separate document or may be included in another court document, such as the social study prepared for a permanency planning hearing.

(b) **[Calculating time in foster care (§727.32(b))]** The following guidelines must be used to determine if the child has been in foster care for 15 of the most recent 22 months:

(1) Determine the date the child entered foster care, as defined in rule 1401(a)(7). In some cases, this will be the date the child entered foster care as a dependent.

(2) Calculate the total number of months since the date in (1) that the child has spent in foster care. Do not start over if a new petition is filed or for any other reason.

(3) If the child is in foster care for a portion of a month, calculate the total number of days in foster care during that month. Add one month to the total number of months for every 30 days the child is in foster care.

(4) Exclude time during which the child was detained in the home of a parent or guardian; the child was living at home on formal or informal probation, at home on a trial home visit, or at home with no probationary status; the child was a runaway or "absent without leave" (AWOL); or the child was

out of home in a non–foster care setting, including juvenile hall, California Youth Authority, a ranch, a camp, a school, or any other locked facility.

(5) Once the total number of months in foster care has been calculated, determine how many of those months occurred within the most recent 22 months. If that number is 15 or more, the requirement in (a) applies.

(6) If the requirement in (a) has been satisfied once, there is no need to take additional action or provide additional documentation after any subsequent 22-month period.

Rule 1496.3 adopted effective January 1, 2003.

Rule 1601. Stipulations and requests for assignment to arbitration ~~hearing list~~

(a) [Stipulations to arbitration] When the parties stipulate to arbitration, the action ~~shall~~ must be ~~placed on the~~ set for arbitration ~~hearing list~~ forthwith. The stipulation ~~shall~~ must be filed no later than the time the ~~first status or~~ initial case management ~~conference~~ statement ~~or similar event~~ is filed, ~~or 195 days after the complaint is filed, whichever is earlier~~, unless the court orders otherwise.

(Subd (a) amended effective January 1, 2003; previously amended effective July 1, 1979 and January 1, 1999.)

(b) [Requests for arbitration] Upon written request of a plaintiff to submit an action to arbitration, the action ~~shall~~ must be ~~placed on the arbitration hearing list~~ set for arbitration subject to a motion by defendant for good cause to delay the arbitration hearing. The request ~~shall~~ must be filed ~~at~~ no later than the time the ~~at issue memorandum~~ initial case management statement is filed, ~~or at such later date as is permitted by the court~~ unless the court orders otherwise.

(Subd (b) amended effective January 1, 2003; adopted effective July 1, 1979; previously amended effective January 1, 1982, January 1, 1986, and January 1, 1988.)

(c) [Cross-actions] An action involving a cross-complaint where a plaintiff has elected to arbitrate ~~shall~~ must be removed from the ~~arbitration hearing~~ list of cases assigned to arbitration if, upon motion of the cross-complainant made within 15 days after notice of the election to arbitrate, the court determines that the amount in controversy relating to the cross-complaint exceeds $50,000.

(Subd (c) amended and relettered effective January 1, 2003; adopted as part of subd (b) effective July 1, 1979.)

~~(c)~~(d) [Case management conference] Absent a stipulation or a request by plaintiff to submit to arbitration~~:~~, ~~(1) in superior courts~~ actions ~~shall~~ must be ~~placed on the arbitration hearing list~~ set for arbitration at the initial case management conference ~~when the court determines the amount in controversy, which conference shall be held no later than three months after the at-issue memorandum is filed and~~ or no later than 90 days before the date set for trial, whichever occurs first~~; (2) in municipal courts, actions shall be placed on the hearing list at such time as is designated by local rule~~.

(Subd (d) amended and relettered effective January 1, 2003; adopted as subd (c) effective July 1, 1976; previosuly amended effective July 1, 1979 and January 1, 1982 (Subd (d) repealed effective January 1, 1985).)

Rule 1601 amended effective January 1, 2003; adopted effective July 1, 1976; previously amended effective July 1, 1979, January 1, 1982, January 1, 1985, January 1, 1986, January 1, 1988 and January 1, 1991.

Rule 1615. The award; entry as judgment, motion to vacate

(a)-(c) ***

(d) A party against whom a judgment is entered pursuant to an arbitration award may, within six months after its entry, move to vacate the judgment on the ground that the arbitrator was subject to a disqualification not disclosed before the hearing and of which the arbitrator was then aware, or upon one of the grounds set forth in section 473 or subdivisions (a)~~, (b), and (c)~~(1), (2), and (3) of section 1286.2 of the Code of Civil Procedure, and upon no other grounds. The motion shall be heard upon notice to the adverse parties and to the arbitrator, and may be granted only upon clear and convincing evidence that the grounds alleged are true, and that the motion was made as soon as practicable after the moving party learned of the existence of those grounds.

(Subd (d) amended effective January 1, 2003; previously amended effective January 1, 1983.)

Rule 1615 amended effective January 1, 2003; adopted effective July 1, 1976; previously amended effective January 1, 1983, January 1, 1985, and effective January 1, 1995.

PART 1. Rules of Conduct for Mediators in Court-Connected Mediation Programs for Civil Cases ~~[Reserved]~~

Title V, Special Rules for Trial Courts—Division III, Alternative Dispute Resolution Rules for Civil Cases—Chapter 4, General Rules Relating to Mediation of Civil Cases—Part 1, Rules of

Conduct for Mediators in Court-Connected Mediation Programs for Civil Cases, adopted effective January 1, 2003.

Rule 1620. Purpose and function

(a) The rules in this part establish the minimum standards of conduct for mediators in court-connected mediation programs for general civil cases. These rules are intended to guide the conduct of mediators in these programs, to inform and protect participants in these mediation programs, and to promote public confidence in the mediation process and the courts. For mediation to be effective there must be broad public confidence in the integrity and fairness of the process. Mediators in court-connected programs are responsible to the parties, the public, and the courts for conducting themselves in a manner that merits that confidence.

(b) These rules are not intended to:

(1) Establish a ceiling on what is considered good practice in mediation or discourage efforts by courts, mediators, or others to educate mediators about best practices;

(2) Create a basis for challenging a settlement agreement reached in connection with mediation; or

(3) Create a basis for a civil cause of action against a mediator.

Rule 1620 adopted effective January 1, 2003.

Rule 1620.1. Application

(a) The rules in this part apply to mediations in which a mediator:

(1) Has agreed to be included on a superior court's list or panel of mediators for general civil cases and is notified by the court or the parties that he or she has been selected to mediate a case within that court's mediation program; and

(2) Has agreed to mediate a general civil case pending in a superior court after being notified by the court or the parties that he or she was recommended, selected, or appointed by that court or will be compensated by that court to mediate a case within that court's mediation program.

(b) If a court's panel or list includes firms that provide mediation services, all mediators affiliated with a listed firm are required to comply with the rules in this part when they are notified by the court or the parties that the firm was selected from the court list to mediate a general civil case within that court's mediation program.

(c) Except as otherwise provided in these rules, the rules in this part apply from the time the mediator agrees to mediate a case until the end of the mediation in that case.

(d) The rules in this part do not apply to judges or other judicial officers while they are serving in a capacity in which they are governed by the Code of Judicial Ethics.

(e) The rules in this part do not apply to settlement conferences conducted under rule 222 of the California Rules of Court.

Rule 1620.1 adopted effective January 1, 2003.

Rule 1620.2. Definitions

As used in this part, unless the context or subject matter otherwise requires:

(a) **[Mediation]** "Mediation" means a process in which a neutral person or persons facilitate communication between the disputants to assist them in reaching a mutually acceptable agreement.

(b) **[Mediator]** "Mediator" means a neutral person who conducts a mediation.

(c) **[Participant]** "Participant" means any individual, entity, or group, other than the mediator taking part in a mediation, including but not limited to attorneys for the parties.

(d) **[Party]** "Party" means any individual, entity, or group taking part in a mediation who is a plaintiff, a defendant, a cross-complainant, a cross-defendant, a petitioner, a respondent, or an intervenor in the case.

Rule 1620.2 adopted effective January 1, 2003.

Rule 1620.3. Voluntary participation and self-determination

A mediator must conduct the mediation in a manner that supports the principles of voluntary participation and self-determination by the parties. For this purpose a mediator must:

(a) Inform the parties, at or before the outset of the first mediation session, that any resolution of the dispute in mediation requires a voluntary agreement of the parties;

(b) Respect the right of each participant to decide the extent of his or her participation in the mediation, including the right to withdraw from the mediation at any time; and

(c) Refrain from coercing any party to make a decision or to continue to participate in the mediation.

Rule 1620.3 adopted effective January 1, 2003.

Rule 1620.4. Confidentiality

(a) **[Compliance with confidentiality law]** A mediator must, at all times, comply with the applicable law concerning confidentiality.

(b) **[Informing participants of confidentiality]** At or before the outset of the first mediation session, a mediator must provide the participants with a general explanation of the confidentiality of mediation proceedings.

(c) **[Confidentiality of separate communications; caucuses]** If, after all the parties have agreed to participate in the mediation process and the mediator has agreed to mediate the case, a mediator speaks separately with one or more participants out of the presence of the other participants, the mediator must first discuss with all participants the mediator's practice regarding confidentiality for separate communications with the participants. Except as required by law, a mediator must not disclose information revealed in confidence during such separate communications unless authorized to do so by the participant or participants who revealed the information.

(d) **[Use of confidential information]** A mediator must not use information that is acquired in confidence in the course of a mediation outside the mediation or for personal gain.

Rule 1620.4 adopted effective January 1, 2003.

Rule 1620.5. Impartiality, conflicts of interest, disclosure, and withdrawal

(a) [Impartiality] A mediator must maintain impartiality toward all participants in the mediation process at all times.

(b) [Disclosure of matters potentially affecting impartiality]

(1) A mediator must make reasonable efforts to keep informed about matters that reasonably could raise a question about his or her ability to conduct the proceedings impartially, and must disclose these matters to the parties. These matters include, but are not limited to:

(A) Past, present, and currently expected interests, relationships, and affiliations of a personal, professional, or financial nature; and

(B) The existence of any grounds for disqualification of a judge specified in Code of Civil Procedure section 170.1.

(2) A mediator's duty to disclose is a continuing obligation, from the inception of the mediation process through its completion. Disclosures required by this rule must be made as soon as practicable after a mediator becomes aware of a matter that must be disclosed. To the extent possible, such disclosures should be made before the first mediation session, but in any event they must be made within the time required by applicable court rules or statutes.

(c) [Proceeding if there are no objections or questions concerning impartiality] Except as provided in subdivision (f) below, if, after a mediator makes disclosures, no party objects to the mediator and no participant raises any question or concern about the mediator's ability to conduct the mediation impartially, the mediator may proceed.

(d) [Responding to questions or concerns concerning impartiality] If, after a mediator makes disclosures or at any other point in the mediation process, a participant raises a question or concern about the mediator's ability to conduct the mediation impartially, the mediator must address the question or concern with the participants. Except as provided in subdivision (f), if, after the question or concern is addressed, no party objects to the mediator, the mediator may proceed.

(e) [Withdrawal or continuation upon party objection concerning impartiality] In a two-party mediation, if any party objects to the mediator after the mediator makes disclosures or discusses a participant's question or concern regarding the mediator's ability to conduct the mediation impartially, the mediator must withdraw. In a mediation in which there are more than two parties, the mediator may continue the mediation with the nonobjecting parties, provided that doing so would not violate any other provision of these rules, any law, or any local court rule or program guideline.

(f) [Circumstances requiring mediator recusal despite party consent] Regardless of the consent of the parties, a mediator either must decline to serve as mediator or, if already serving, must withdraw from the mediation if:

(1) The mediator cannot maintain impartiality toward all participants in the mediation process; or

(2) Proceeding with the mediation would jeopardize the integrity of the court or of the mediation process.

Rule 1620.5 adopted effective January 1, 2003.

Rule 1620.6. Competence

(a) [Compliance with court qualifications] A mediator must comply with experience, training, educational, and other requirements established by the court for appointment and retention.

(b) [Truthful representation of background] A mediator has a continuing obligation to truthfully represent his or her background to the court and participants. Upon a request by any party, a mediator must provide truthful information regarding his or her experience, training, and education.

(c) [Informing court of public discipline and other matters) A mediator must also inform the court if:

(1) Public discipline has been imposed on the mediator by any public disciplinary or professional licensing agency;

(2) The mediator has resigned his or her membership in the State Bar or another professional licensing agency while disciplinary or criminal charges were pending;

(3) A felony charge is pending against the mediator;

(4) The mediator has been convicted of a felony or of a misdemeanor involving moral turpitude; or

(5) There has been an entry of judgment against the mediator in any civil action for actual fraud or punitive damages.

(d) [Assessment of skills; withdrawal] A mediator has a continuing obligation to assess whether or not his or her level of skill, knowledge, and ability is sufficient to conduct the mediation effectively. A mediator must decline to serve or withdraw from the mediation if the mediator determines that he or she does not have the level of skill, knowledge, or ability necessary to conduct the mediation effectively.

Rule 1620.6 adopted effective January 1, 2003.

Rule 1620.7. Quality of mediation process

(a) [Diligence] A mediator must make reasonable efforts to advance the mediation in a timely manner. If a mediator schedules a mediation for a specific time period, he or she must keep that time period free of other commitments.

(b) [Procedural fairness] A mediator must conduct the mediation proceedings in a procedurally fair manner. "Procedural fairness" means a balanced process in which each party is given an opportunity to participate and make uncoerced decisions. A mediator is not obligated to ensure the substantive fairness of an agreement reached by the parties.

(c) [Explanation of process] In addition to the requirements of rule 1620.3 (voluntary participation and self-determination), rule 1620.4(a) (confidentiality), and subdivision (d) of this rule (representation and other professional services), at or before the outset of the mediation the mediator must provide all participants with a general explanation of:

(1) The nature of the mediation process;

(2) The procedures to be used; and

(3) The roles of the mediator, the parties, and the other participants.

(d) [Representation and other professional services] A mediator must inform all participants, at or before the outset of the first mediation session, that during the mediation he or she will not represent any participant as a lawyer or perform professional services in any capacity other than as an impartial mediator. Subject to the principles of impartiality and self-determination, a mediator may provide information or opinions that he or she is qualified by training or experience to provide.

(e) [Recommending other services] A mediator may recommend the use of other services in connection with a mediation and may recommend particular providers of other services. However, a mediator must disclose any related personal or financial interests if recommending the services of specific individuals or organizations.

(f) [Nonparticipants' interests] A mediator may bring to the attention of the parties the interests of others who are not participating in the mediation but who may be affected by agreements reached as a result of the mediation.

(g) [Combining mediation with other ADR processes] A mediator must exercise caution in combining mediation with other alternative dispute resolution (ADR) processes and may do so only with the informed consent of the parties and in a manner consistent with any applicable law or court order. The mediator must inform the parties of the general natures of the different processes and the consequences of revealing information during any one process that might be used for decision making in another process, and must give the parties the opportunity to select another neutral for the subsequent process. If the parties consent to a combination of processes, the mediator must clearly inform the participants when the transition from one process to another is occurring.

(h) [Settlement agreements] Consistent with subdivision (d), a mediator may present possible settlement options and terms for discussion. A mediator may also assist the parties in preparing a written settlement agreement, provided that in doing so the mediator confines the assistance to stating the settlement as determined by the parties.

(i) [Discretionary termination and withdrawal] A mediator may suspend or terminate the mediation or withdraw as mediator when he or she reasonably believes the circumstances require it, including when he or she suspects that:

(1) The mediation is being used to further illegal conduct;

(2) A participant is unable to participate meaningfully in negotiations; or

(3) Continuation of the process would cause significant harm to any participant or a third party.

(j) [Manner of withdrawal] When a mediator determines that it is necessary to suspend or terminate a mediation or to withdraw, the mediator must do so without violating the obligation of confidentiality and in a manner that will cause the least possible harm to the participants.

Rule 1620.7 adopted effective January 1, 2003.

Rule 1620.8. Marketing

(a) [Truthfulness] A mediator must be truthful and accurate in marketing his or her mediation services. A mediator is responsible for ensuring that both his or her own marketing activities and any marketing activities carried out on his or her behalf by others comply with this rule.

(b) [Representations concerning court approval] A mediator may indicate in his or her marketing materials that he or she is a member of a particular court's panel or list but, unless specifically permitted by the court, must not indicate that he or she is approved, endorsed, certified, or licensed by the court.

(c) [Promises, guarantees, and implications of favoritism] In marketing his or her mediation services, a mediator must not:

(1) Promise or guarantee results; or

(2) Make any statement that directly or indirectly implies bias in favor of one party or participant over another.

(d) [Solicitation of business] A mediator must not solicit business from a participant in a mediation proceeding while that mediation is pending.

Rule 1620.8 adopted effective January 1, 2003.

Rule 1620.9. Compensation and gifts

(a) [Compliance with law] A mediator must comply with any applicable requirements concerning compensation established by statute or the court.

(b) [Disclosure of and compliance with compensation terms] Before commencing the mediation, the mediator must disclose to the parties in writing any fees, costs, or charges to be paid to the mediator by the parties. A mediator must abide by any agreement that is reached concerning compensation.

(c) [Contingent fees] The amount or nature of a mediator's fee must not be made contingent upon the outcome of the mediation.

(d) [Gifts and favors] A mediator must not at any time solicit or accept from or give to any participant or affiliate of a participant any gift, bequest, or favor that might reasonably raise a question concerning the mediator's impartiality.

Rule 1620.9 adopted effective January 1, 2003.

Rule 1622. Complaint procedure

(a) Each superior court that makes a list of mediators available to litigants in general civil cases or that recommends, selects, appoints, or compensates a mediator to mediate any general civil case pending in the court must establish procedures for receiving, investigating, and resolving complaints against the mediators who are on the court's list or who are recommended, selected, appointed, or compensated by the court.

(b) The court may reprimand a mediator, remove a mediator from the court's panel or list, or otherwise prohibit a mediator from receiving future mediation referrals from the court if the mediator fails to comply with the rules of conduct for mediators in this part, when applicable.

Rule 1622 adopted effective January 1, 2003.

DIVISION VIb
RULES FOR FAX AND ELECTRONIC FILING AND SERVICE

CHAPTER 2. ELECTRONIC FILING AND SERVICE RULES

Rule 2050. Definitions

As used in this chapter, unless the context requires otherwise:

(a) [Close of business] "Close of business" is 5 p.m. or any other time on a court day—as defined in Code of Civil Procedure section 133—at which the court stops accepting documents for filing at its filing counter. A court must provide notice of its close-of-business time electronically. A court may give this notice in any additional manner it deems appropriate.

(b) [Document] A document is a pleading, a paper, a declaration, an exhibit, or another filing submitted by a party or by an agent of a party on the party's behalf. A document may be in paper or electronic form.

(c) [Electronic filer] An electronic filer is a party filing a document in electronic form with the court.

(d) [Electronic filing] Electronic filing is the electronic transmission to a court of a document in electronic form.

(e) [Electronic service] Electronic service is the electronic transmission of a document to a party's electronic notification address for the purpose of effecting service.

(f) [Party] A party is a person appearing in any action or proceeding in pro per or an attorney of record for a party in any action or proceeding.

(g) [Regular filing hours] Regular filing hours are the hours during which a court accepts documents for filing.

(h) [These rules] "These rules" are the rules in this chapter.

Rule 2050 adopted effective January 1, 2003.

Rule 2051. Authority and purpose

These rules are adopted under Code of Civil Procedure section 1010.6 and the authority granted to the Judicial Council by the California Constitution, article VI, section 6. They govern electronic filing and service of documents in the superior court.

Rule 2051 adopted effective January 1, 2003.

Rule 2052. Documents that may be filed electronically

(a) [In general] A court may permit electronic filing of a document in any action or proceeding unless these rules or other legal authority expressly prohibit electronic filing.

(b) [Original documents] In a proceeding that requires the filing of an original document, an electronic filer may file a scanned copy of a document if the original document is then filed with the court within 10 calendar days.

(c) [Application for waiver of court fees and costs] A court may permit electronic filing of an application for waiver of court fees and costs in any proceeding in which the court accepts electronic filings.

(d) [Orders and judgments] The court may electronically file any notice, order, minute order, judgment, or other document prepared by the court.

(e) [Effect of document filed electronically]

(1) A document that the court or a party files electronically under these rules has the same legal effect as a document in paper form.

(2) Filing a document electronically does not alter any filing deadline.

Rule 2052 adopted effective January 1, 2003.

Rule 2053. Court order requiring electronic filing and service

(a) [Court order] A court may, on the motion of any party or on its own motion, order all parties to file and serve all documents electronically in any class action, a consolidated action, or a group of actions, a coordinated action, or an action that is deemed complex under rule 1812, after finding that such an order would not cause undue hardship or significant prejudice to any party. The court's order may also provide that:

(1) Documents previously filed in paper form may be resubmitted in electronic form; and

(2) When the court sends confirmation of filing to all parties, receipt of the confirmation constitutes service of the filing.

(b) [Filing in paper form] When it is not feasible for a party to convert a document to electronic form by scanning, imaging, or another means, a court may allow a party to file the document in paper form.

Rule 2053 adopted effective January 1, 2003.

Rule 2054. Responsibilities of court

(a) [Internet-accessible system]

(1) A court that orders electronic filing must allow for filing over the Internet by means designed to ensure the security and integrity of a transmission.

(2) The court may make an exception to Internet transmission if doing so facilitates the management of a particular action or proceeding and does not cause undue prejudice to any party.

(b) [Publication of electronic filing requirements] A court that permits electronic filing must publish, in both electronic and print formats, the court's electronic filing requirements.

(c) [Problems with electronic filing] If a court is aware of a problem that impedes or precludes electronic filing during the court's regular filing hours, it must promptly take reasonable steps to provide notice of the problem.

(d) [Public access to electronically filed documents] Except as provided in rules 2070 through 2076, an electronically filed document is a public document at the time it is filed unless it is sealed under rule 243.2(b) or made confidential by law.

Rule 2054 adopted effective January 1, 2003.

Advisory Committee Comment (2003)

The Court Technology Advisory Committee recommends that electronic filing service providers comply with the technical standards set forth on the California Courts Web site at *www.courtinfo.ca.gov/programs/efiling/*. The committee anticipates that these rules may be amended to require compliance with the California Electronic Filing Technical Standards once the standards are sufficiently developed.

Rule 2055. Contracts with electronic filing service providers

(a) [Right to contract]

(1) A court may contract with one or more electronic filing service providers to furnish and maintain an electronic filing system for the court.

(2) If the court contracts with an electronic filing service provider, it may require electronic filers to transmit the documents to the provider.

(3) If there is a single provider or in-house system, it must accept filing from other electronic filing service providers to the extent it is compatible with them.

(b) [Provisions of contract] The court's contract with an electronic filing service provider may allow the provider to charge electronic filers a reasonable fee in addition to the court's filing fee. The contract may also allow the electronic filing service provider to make other reasonable requirements for use of the electronic filing system.

(c) [Transmission of filing to court] An electronic filing service provider must promptly transmit any electronic filing, with the applicable filing fee, to the court.

(d) [Confirmation of receipt and filing of document]

(1) An electronic filing service provider must promptly send to an electronic filer confirmation of the receipt of any document that the filer has transmitted to the provider for filing with the court.

(2) The provider must send its confirmation to the filer's electronic notification address and must indicate the date and time of receipt, in accordance with rule 2059(a).

(3) After reviewing the documents, the court must promptly transmit to the provider and the electronic filer the court's confirmation of filing or notice of rejection of filing, in accordance with rule 2059.

(e) [Ownership of information] Any contract between a court and an electronic filing service provider must acknowledge that the court is the owner of the contents of the filing system and has the exclusive right to control its use.

Rule 2055 adopted effective January 1, 2003.

Advisory Committee Comment (2003)

The Court Technology Advisory Committee recommends that electronic filing service providers comply with the technical standards set forth on the California Courts Web site at *www.courtinfo.ca.gov/programs/efiling/*. The committee anticipates that these rules may be amended to require compliance with the California Electronic Filing Technical Standards once the standards are sufficiently developed.

Rule 2056. Responsibilities of electronic filer

(a) [Conditions of filing] An electronic filer agrees to, and must:

(1) Comply with any court requirements designed to ensure the integrity of electronic filing and to protect sensitive personal information;

(2) Furnish information the court requires for case processing;

(3) Take all reasonable steps to ensure that the filing does not contain computer code, including viruses, that might be harmful to the court's electronic filing system and to other users of that system;

(4) Furnish one or more electronic notification addresses, in the manner specified by the court, at which the electronic filer agrees to accept service; and

(5) Immediately provide the court and parties with any change to his or her electronic notification addresses.

(b) [Format of documents to be filed electronically] A document that is filed electronically with the court must be in a format specified by the court unless it cannot be created in that format. The format adopted by a court must meet the following requirements:

(1) The software for creating and reading documents must be in the public domain or generally available at a reasonable cost.

(2) By January 1, 2007, any format adopted by the court must allow for full text searching. Documents not available in a format that permits full text searching must be scanned or imaged as required by the court, unless the court orders that scanning or imaging would be unduly burdensome. By January 1, 2007, such scanning or imaging must allow for full text searching to the extent feasible.

(3) The printing of documents must not result in the loss of document content, format, or appearance.

Rule 2056 adopted effective January 1, 2003.

Rule 2057. Requirements for signatures on documents

(a) [Documents under penalty of perjury]

(1) When a document to be filed electronically requires a signature under penalty of perjury, the document is deemed signed by the declarant if, before filing, the declarant has signed a printed form of the document.

(2) By electronically filing the document, the electronic filer indicates that he or she has complied with subdivision (a)(1) of this rule and that the original, signed document is available for review and copying at the request of the court or any party.

(3) At any time after the document is filed, any other party may serve a demand for production of the original signed document. The demand must be served on all other parties but need not be filed with the court.

(4) Within five days of service of the demand, the party on whom the demand is made must make the original signed document available for review and copying by all other parties.

(b) [Documents not under penalty of perjury] If a document does not require a signature under penalty of perjury, the document is deemed signed by the party if the document is filed electronically.

(c) [Documents requiring signatures of opposing parties] When a document to be filed electronically, such as a stipulation, requires the signatures of opposing parties, the following procedure applies:

(1) The party filing the document must obtain the signatures of all parties on a printed form of the document.

(2) The party filing the document must maintain the original, signed document and must make it available for review and copying as provided in subdivision (a)(2).

(3) By electronically filing the document, the electronic filer indicates that all parties have signed the document and that the filer has the signed original in his or her possession.

(d) [Digital signature] A party is not required to use a digital signature on an electronically filed document.

Rule 2057 adopted effective January 1, 2003.

Rule 2058. Payment of filing fees

(a) [Use of credit cards and other methods] A court may permit the use of credit cards, debit cards, electronic fund transfers, or debit accounts for the payment of filing fees associated with electronic filing, as provided in Government Code section 6159 and rule 6.703 or otherwise applicable law. A court may also authorize other methods of payment.

(b) [Fee waiver] Eligible persons may seek a waiver of court fees and costs, as provided in Government Code section 68511.3 and rule 2052(c).

Rule 2058 adopted effective January 1, 2003.

Rule 2059. Actions by court on receipt of electronic filing

(a) [Confirmation of receipt and filing of document]

(1) When a court receives an electronically submitted document directly from the filer and not through an electronic filing service provider, the court must promptly send the electronic filer confirmation of receipt of the document, indicating the date and time of receipt. If the document complies with filing requirements and all required filing fees have been paid, the court must promptly send the electronic filer confirmation that the document has been filed.

(2) The filing confirmation must indicate the date and time of filing and is proof that the document was filed on the date and at the time specified. The confirmation must also specify:

(a) Any transaction number associated with the filing;

(b) The titles of the documents as filed by the court; and

(c) The fees assessed for the filing.

(3) The court will send its confirmation to the electronic filer at the electronic notification address the filer furnished to the court in accordance with rule 2056(a)(4). The court must maintain a record of its confirmation of receipt and filing. In the absence of confirmation of receipt and filing,

there is no presumption that the court received and filed the document. Verification of the receipt and filing of any document by the court is the responsibility of the electronic filer.

(b) [Notice of rejection of document for filing] If a document is not filed by the clerk because it does not comply with applicable filing requirements or because the required filing fee has not been paid, the court must promptly send notice to the electronic filer. The notice must set forth the reasons the document was rejected for filing.

(c) [Document filed after close of business] A document that is filed electronically with the court after the close of business is considered to have been filed on the next court day.

(d) [Delayed delivery] If a technical problem with respect to a court's electronic filing system precludes the court from accepting an electronic filing during its regular filing hours on a particular court day, and the electronic filer demonstrates that he or she attempted to file on that day, the court must deem the filing received on that day. This provision does not apply to the complaint or any other initial pleading in an action or proceeding.

(e) [Endorsement]

(1) The court's endorsement of a document electronically filed must contain the following: "Electronically filed by Superior Court of California, County of _____, on _____ [date]," followed by the name of the court clerk.

(2) This endorsement has the same force and effect as a manually affixed endorsement stamp with the signature and initials of the court clerk.

(3) A complaint or another initial pleading in an action or proceeding that is filed and endorsed electronically may be printed and served on the defendant or respondent in the same manner as if it had been filed in paper form.

(f) [Issuance of electronic summons]

(1) On the electronic filing of a complaint, a petition, or another document that must be served with a summons, the court may transmit a summons electronically to the filer.

(2) The summons must contain an image of the court's seal and the assigned case number.

(3) Personal service of the printed form of an electronic summons has the same legal effect as personal service of an original summons.

Rule 2059 adopted effective January 1, 2003.

Rule 2060. Electronic service

(a) [Applicability]

(1) When a notice may be served by mail, express mail, overnight delivery, or facsimile transmission, electronic service of the notice is permitted.

(2) A party indicates that he or she agrees to accept electronic service by:

(A) Filing and serving a notice that the party accepts electronic service. The notice must include the electronic notification addresses at which the party agrees to accept service; or

(B) Electronically filing any document with the court. By the act of electronic filing, the party agrees to accept service at any electronic notification address the party has furnished to the court in accordance with rule 2056(a)(4).

(b) [When service is complete]

(1) Electronic service is complete at the time of transmission.

(2) If a document is served electronically, any period of notice, or any right or duty to act or respond within a specified period or on a date certain after service of the document, is extended by two court days.

(3) The extension under subdivision (b)(2) does not extend the time for filing:

(A) A notice of intention to move for a new trial;

(B) A notice of intention to move to vacate the judgment under Code of Civil Procedure section 663a; or

(C) A notice of appeal.

(4) Service that occurs after the close of business is considered to have occurred on the next court day.

(c) [Proof of service]

(1) Proof of electronic service may be by any of the methods provided in Code of Civil Procedure section 1013(a), except that the proof of service must state:

(A) The electronic notification address of the person making the service, in place of that person's residence or business address;

(B) The date and time of the electronic service, in place of the date and place of deposit in the mail;

(C) The name and electronic notification address of the person served, in place of that person's name and address as shown on the envelope; and

(D) That the document was served electronically and the transmission was reported as complete and without error, in place of the statement that the envelope was sealed and deposited in the mail with postage fully prepaid.

(2) Proof of electronic service may be in electronic form and may be filed electronically with the court.

(3) In accordance with rule 317(c), proof of service of the moving papers must be filed at least five calendar days before the hearing.

(4) The party filing the proof of service must maintain the printed form of the document bearing the declarant's original signature and must make the document available for review and copying on the request of the court or any party to the action or proceeding in which it is filed, in accordance with rule 2057(a).

(d) [Change of electronic notification address]

(1) A party whose electronic notification address changes while the action or proceeding is pending must promptly file a notice of change of address with the court electronically and must serve this notice on all other parties or their attorneys of record.

(2) An electronic notification address is presumed valid for a party if the party files electronic documents with the court from that address and has not filed and served notice that the address is no longer valid.

(e) [Electronic service by court] A court may electronically serve any notice, order, judgment, or other document prepared by the court in the same manner that parties may serve documents by electronic service.

Rule 2060 adopted effective January 1, 2003.

Rule 5.500 Court communication protocol for domestic violence and child custody orders

(a) [Definitions] For purposes of this rule,

(1) "Criminal court protective order" means any court order issued under California Penal Code section 136.2 arising from a complaint, an information, or an indictment in which the victim or witness and the defendant have a relationship as defined in Family Code section 6211.

(2) "Court" means all departments and divisions of the superior court of a single county.

(3) "Cases involving child custody and visitation" include family, juvenile, probate, and guardianship proceedings.

(b) [Purpose]

(1) This rule is intended to:

(A) Encourage courts to share information about the existence and terms of criminal court protective orders and other orders regarding child custody and visitation that involve the defendant and the victim or witness named in the criminal court protective orders.

(B) Encourage courts hearing cases involving child custody and visitation to take every action practicable to ensure that they are aware of the existence of any criminal court protective orders involving the parties to the action currently before them.

(C) Encourage criminal courts to take every action practicable to ensure that they are aware of the existence of any child custody or visitation

court orders involving the defendant in the action currently before them.

(D) Permit appropriate visitation between a criminal defendant and his or her children pursuant to civil court orders, but at the same time provide for the safety of the victim or witness by ensuring that a criminal court protective order is not violated.

(E) Protect the rights of all parties and enhance the ability of law enforcement to enforce orders.

(F) Encourage courts to establish regional communication systems with courts in neighboring counties regarding the existence of and terms of criminal court protective orders.

(2) This rule is not intended to change the procedures, provided in Family Code section 6380, for the electronic entry of domestic violence restraining orders into the Domestic Violence Restraining Order System.

(c) [Local rule required] Every superior court must, by January 1, 2004, adopt local rules containing, at a minimum, the following elements*:*

(1) (*Court communication*) A procedure for communication among courts issuing criminal protective orders and courts issuing orders involving child custody and visitation orders, regarding the existence and terms of criminal protective orders and child custody and visitation orders, including;

(A) A procedure requiring courts issuing any orders involving child custody or visitation to make reasonable efforts to determine whether there exists a criminal court protective order that involves any party to the action.

(B) A procedure requiring courts issuing criminal court protective orders to make reasonable efforts to determine whether there exist any child custody or visitation orders that involve any party to the action.

(2) (*Modification*) A procedure by which the court that has issued a criminal court protective order may, after consultation with a court that has issued a subsequent child custody or visitation order, modify the criminal court protective order to allow or restrict contact between the person restrained by the order and his or her children.

(3) The requirements of Penal Code section 136.2(i)(1) and (2).

Rule 5.500 adopted effective January 1, 2003.

Rule 6.57. Judicial Service Advisory Committee

(a) [**Area of focus**] The Judicial Service Advisory Committee makes recommendations for improving judicial service, retention, and compensation.

(b) **[Additional duties]** In addition to the duties described in rule 6.34, the committee must identify and evaluate best current national and local practices and develop or recommend necessary training related to the following issues:

(1) A "cafeteria plan" of benefits; wellness subsidies; professional development allowances; personal leave; and supplemental life, disability, or liability insurance;

(2) Health care benefits, including services and programs;

(3) Compensation and retirement, including recommendations for 401(k) and other deferred compensation programs and the most appropriate mechanism for setting judicial salaries and

(4) Resources and programs for quality of judicial life, particularly those dealing with health, stress, and relationships;

(5) Mentorship programs; and

(6) Special needs and programs for new and retired judges.

(c) [**Membership**] The committee consists of at least one member from each of the following categories:

(1) Appellate court justice;

(2) Retired jurist;

(3) Superior court judge from a court with 15 or more judges;

(4) Superior court judge from a court with 5 to 14 judges;

(5) Superior court judge from a court with 4 or fewer judges;

(6) Superior court executive officer from a court with 15 or more judges;

(7) Superior court executive officer from a court with 14 or fewer judges;

(8) Member of the Administrative Presiding Justices Advisory Committee; and

(9) Member of the Trial Court Presiding Judges Advisory Committee.

Rule 6.57 adopted effective January 1, 2003.

Rule 6.151. Judicial sabbatical pilot program

(a) [**Objective**] Sabbatical leave is a privilege available to jurists by statute. The objective of sabbatical leave is to facilitate study, teaching, research, or another activity that will benefit the administration of justice and enhance judges' performance of their duties.

(b) [**Eligibility**]

(1) A judge or justice is eligible to apply for a paid sabbatical under Government Code section 77213 if:

(A) He or she has served for at least seven years as a California judicial officer, including service as a subordinate judicial officer;

(B) He or she has not taken a sabbatical within seven years of the date of the proposed sabbatical; and

(C) He or she agrees to continue to serve as a judicial officer for at least three years after the sabbatical.

(2) Any judge is eligible to apply for an unpaid sabbatical under Government Code section 68554.

(c) [**Application**]

(1) An eligible judge may apply for a sabbatical by submitting a sabbatical proposal to the Administrative Director of the Courts with a copy to the presiding judge or justice.

(2) The sabbatical proposal must include:

(A) The judge's certification that he or she meets the eligibility requirements established in (b);

(B) The beginning and ending dates of the proposed sabbatical;

(C) A description of the sabbatical project, including an explanation of how the sabbatical will benefit the administration of justice and the judge's performance of his or her duties;

(D) A statement from the presiding judge or justice of the affected court, indicating approval or disapproval of the sabbatical request and the reasons for such approval or disapproval, forwarded to the Judicial Sabbatical Review Committee with a copy to the judge.

(d) [**Judicial Sabbatical Review Committee**] A Judicial Sabbatical Review Committee will be appointed to make recommendations to the council regarding sabbatical requests.

(1) *(Membership)* The committee must include at least one member from each of the following groups:

(A) Administrative Presiding Justices Advisory Committee;

(B) Trial Court Presiding Judges Advisory Committee;

(C) Court Executives Advisory Committee;

(D) Governing Committee of the Center for Judicial Education and Research;

(E) Task Force (Advisory Committee) on Judicial Service; and

(F) California Judges Association (liaison)

(2) *(Staffing)* The committee will be staffed by the Human Resources Division of the Administrative Office of the Courts and may elect its chair and vice-chair.

(e) [**Evaluation**]

(1) The Administrative Director of the Courts must forward all sabbatical requests that comply with (c) to the Judicial Sabbatical Review Committee.

(2) The Judicial Sabbatical Review Committee must recommend granting or denying the sabbatical request after it considers the following factors:

(A) Whether the sabbatical will benefit the administration of justice in California and the judge's performance of his or her duties; and

(B) Whether the sabbatical leave will be detrimental to the affected court.

(3) The Judicial Sabbatical Review Committee may recommend an unpaid sabbatical if there is insufficient funding for a paid sabbatical.

(f) [Length]

(1) A paid sabbatical taken under Government Code section 77213 may not exceed 120 calendar days. A judge may be allowed to add unpaid sabbatical time onto the end of a paid sabbatical if the purpose of the unpaid sabbatical is substantially similar to the work of the paid sabbatical.

(2) An unpaid sabbatical taken under Government Code section 68554 may not exceed one year.

(g) [Ethics and compensation]

A judge on sabbatical leave is subject to the California Code of Judicial Ethics and, while on a paid sabbatical, must not accept compensation for activities performed during that sabbatical leave but may receive reimbursement for the expenses provided in canon 4H(2) of the Code of Judicial Ethics.

(h) [Judge's report]

Upon completion of a sabbatical leave, the judge must report in writing to the Judicial Council on how the leave benefited the administration of justice in California and on its effect on his or her official duties as a judicial officer.

(i) [Retirement and benefits]

(1) A judge on a paid sabbatical leave under Government Code section 77213 continues to receive all the benefits of office and accrues service credit toward retirement.

(2) A judge on unpaid sabbatical leave under Government Code section 68554 receives no compensation, and the period of absence does not count as service toward retirement. The leave does not affect the term of office.

(j) [**Judicial assignment replacement**] Funds must be made available from the Judicial Administration Efficiency and Modernization Fund to allocate additional assigned judges to those courts whose judges' requests for paid sabbaticals are approved.

Rule 6.151 adopted effective January 1, 2003.

Rule 6.660. Qualifications and education of subordinate judicial officers

(a) [Definition] For purposes of this rule, "subordinate judicial officer" means a person appointed by a court to perform subordinate judicial duties as authorized by article VI, section 22 of the California Constitution, including but not limited to a commissioner, a referee, and a hearing officer.

(b) [Qualifications] Except as provided in subdivision (d), a person is ineligible to be a subordinate judicial officer unless the person is a member of the State Bar and:

(1) Has been admitted to practice law in California for at least 10 years or, upon a finding of good cause by the presiding judge, for at least 5 years; or

(2) Is serving as a subordinate judicial officer in a trial court as of January 1, 2003.

(c) [Education] A subordinate judicial officer must comply with the education requirements of any position to which he or she is assigned, even if it is not his or her principal assignment. Such requirements include but are not limited to the following, as applicable: California Rules of Court, rules 970, 1200, 1280.8, and Welfare and Institutions Code, section 304.7.

(d) [Juvenile referees and hearing officers] A person appointed as a juvenile referee or as a hearing officer under Welfare and Institutions Code, sections 247, 255, or 5256.1 must meet the qualification requirements established by those sections. Such a person is ineligible to exercise the powers and perform the duties of another type of subordinate judicial officer unless he or she meets the qualifications established in subdivision (b).

Rule 6.660 adopted effective January 1, 2003.

Chapter 1. General Provisions

Rule 7.1. Preliminary provisions

(a)–(b) * * *

(c) [Rules of construction] Unless the context otherwise requires, these preliminary provisions and the following rules of construction govern the construction of the rules in this title:

(1) To the extent that the~~se~~ rules in this title are substantially the same as existing statutory provisions relating to the same subject matter, they ~~shall~~ must be construed as a restatement~~s~~ and a continuation of those statutes;

(2) To the extent that the~~se~~ rules in this title may add to existing statutory provisions relating to the same subject matter, ~~these~~ they ~~rules shall~~ must be construed so as to implement the purposes of the probate law.

(Subd (c) amended effective January 1, 2003.)

(d) [Jurisdiction] The rules in this title are not intended to expand, limit, or restrict the jurisdiction of the court in proceedings under the Probate Code.

(Subd (d) adopted effective January 1, 2003.)

Rule 7.1 amended effective January 1, 2003; adopted effective January 1, 2000.

Rule 7.2. Definitions; construction of terms

(a) [Definitions] As used in the rules in this title, unless the context or subject matter otherwise requires~~,~~:

(1) ~~t~~The definitions in division 1, part 2 of the Probate Code apply.

(2) "Pleading" means a contest, answer, petition, application, objection, response, statement of interest, report, or account filed in proceedings under the Probate Code.

(3) "Amended pleading" means a pleading that completely restates and supersedes the pleading it amends for all purposes.

(4) "Amendment to a pleading" means a pleading that modifies another pleading and alleges facts or requests relief materially different from the facts alleged or the relief requested in the modified pleading. An amendment to a pleading does not restate or supersede the modified pleading but must be read together with that pleading.

(5) "Supplement to a pleading" and "supplement" mean a pleading that modifies another pleading but does not allege facts or request relief materially different from the facts alleged or the relief requested in the supplemented pleading. A supplement to a pleading may add information to or may correct omissions in the modified pleading.

(Subd (a) amended effective January 1, 2003.)

(b) ***

Rule 7.2 amended effective January 1, 2003; adopted effective January 1, 2000; previously amended effective January 1, 2002.

Rule 7.3. Waiver of rules in probate proceedings

The court for good cause may waive the application of these rules in this title in an individual case.

Rule 7.3 amended effective January 1, 2003; adopted effective January 1, 2000.

Chapter 2. Notices, Publication, and Service ~~[Reserved]~~

Rule 7.50. Description of pleading in notice of hearing

The notice of hearing on a pleading filed in a proceeding under the Probate Code must state the complete title of the pleading to which the notice relates.

Rule 7.50 adopted effective January 1, 2003.

Rule 7.51. Service of notice of hearing

(a) [Direct notice required]

(1) Except as otherwise permitted in the Probate Code, a notice sent by mail under Probate Code section 1220 must be mailed individually and directly to the person entitled to notice.

(2) A notice mailed to a person in care of another person is insufficient unless the person entitled to notice is an adult and has directed the party giving notice in writing to send the notice in care of the second person.

(3) Notices mailed to more than one person in the same household must be sent separately to each person.

(b) [Notice to attorney] If a notice is required or permitted to be given to a person who is represented by an attorney of record in the proceeding, the notice must be sent as required in Probate Code section 1214.

(c) [Notice to guardian or conservator] When a guardian or conservator has been appointed for a person entitled to notice, the notice must be sent to the guardian or conservator and, unless the court has dispensed with such notice, to the ward or the conservatee.

(d) [Notice to minor] Except as permitted in Probate Code section 1460.1 for guardianships, conservatorships, and certain protective proceedings under division 4 of the Probate Code, notice to a minor must be sent directly to the minor. A separate copy of the notice must be sent to the person or persons having legal custody of the minor, with whom the minor resides.

(e) [Notice required in a decedent's estate when a beneficiary has died]

(1) *(Notice when a beneficiary dies after the decedent)* Notice must be sent to the personal representative of a beneficiary who died after the decedent and survived for a period required by the decedent's will. If no personal representative has been appointed for the postdeceased beneficiary, notice must be sent to his or her beneficiaries or other persons entitled to succeed to his or her interest in the decedent's estate.

(2) *(Notice when a beneficiary of the decedent's will dies before the decedent)* When a beneficiary under the will of the decedent died before the decedent or fails to survive the decedent for a period required by the decedent's will, notice must be sent to the persons named in the decedent's will as substitute beneficiaries of the gift to the predeceased beneficiary. If the decedent's will does not make a substitute disposition of that gift, notice must be sent as follows:

(A) If the predeceased beneficiary is a "transferee" under Probate Code section 21110(c), to the issue of the predeceased beneficiary determined under Probate Code section 240 and to the residuary beneficiaries of the decedent or to the decedent's heirs if decedent's will does not provide for distribution of the residue of the estate.

(B) If the predeceased beneficiary is not a "transferee" under Probate Code section 21110(c), to the residuary beneficiaries of the decedent or to the decedent's heirs if decedent's will does not provide for distribution of the residue of the estate.

Rule 7.51 adopted effective January 1, 2003.

Rule 7.52. Service of notice when recipient's address unknown

(a) [Declaration of diligent search] Petitioner must file a declaration describing efforts made to locate a person entitled to notice in a proceeding under the Probate Code, but whose address is unknown, before the court will prescribe an alternate form of notice or dispense with notice under (c). The declaration must state the name of the person whose address is unknown, the last known address of the person, the approximate date when the person was last known to reside there, the efforts made to locate the person, and any facts that explain why the person's address cannot be obtained. The declaration must include a description of the attempts to learn of the person's business and residence addresses by:

(1) Inquiry of the relatives, friends, acquaintances, and employers of the person entitled to notice and of the person who is the subject of the proceeding;

(2) Review of appropriate city telephone directories and directory assistance; and

(3) Search of the real and personal property indexes in the recorder's and assessor's offices for the county where the person was last known or believed to reside.

(b) [Mailed notice to county seat] Mailing notice to a person at a county seat is not a manner of giving notice reasonably calculated to give actual notice.

(c) [The court may prescribe or dispense with notice] If a person entitled to notice cannot be located after diligent search, the court may prescribe the

manner of giving notice to that person or may dispense with notice to that person.

Rule 7.52 adopted effective January 1, 2003.

Rule 7.53. Notice of hearing of amended or supplemented pleadings

(a) [Amended pleading and amendment to a pleading] An amended pleading or an amendment to a pleading requires the same notice of hearing (including publication) as the pleading it amends.

(b) [Supplement to a pleading] A supplement to a pleading does not require additional notice of hearing, but a copy of a supplement to a pleading must be served if service of a copy of the pleading was required, unless waived by the court.

Rule 7.53 adopted effective January 1, 2003.

Rule 7.54. Publication of Notice of Petition to Administer Estate

Publication and service of a *Notice of Petition to Administer Estate* under Probate Code sections 8110–8125 is sufficient notice of any instrument offered for probate that is filed with, and specifically referred to in, the petition for which notice is given. Any other instrument must be presented in an amended petition, and a new notice must be published and served.

Rule 7.54 adopted effective January 1, 2003.

Rule 7.55. Ex parte application for order

(a) An ex parte application for an order must allege whether special notice has been requested.

(b) If special notice has been requested, the application must identify each person who has requested special notice and must allege that special notice has been given to or waived by each person who has requested it.

(c) Proofs of service of special notice or written waivers of special notice must be filed with the application.

Rule 7.55 adopted effective January 1, 2003.

Rule 7.102. Titles ~~for~~ of pleadings and orders

The title of each ~~account, petition, or other~~ pleading and of each proposed order must clearly and completely identify the nature ~~of all~~ of the relief sought or granted.

Rule 7.102 amended effective January 1, 2003; adopted effective January 1, 2001; previously amended effective January 1, 2002.

Rule 7.103. Signature and verification of pleadings

(a) [Signature of parties] A pleading must be in writing and must be signed by all persons joining in it.

(b) [Verification by parties] All pleadings filed in proceedings under the Probate Code must be verified. If two or more persons join in a pleading, it may be verified by any of them.

(c) [Signature and verification by attorney] If a person is absent from the county where his or her attorney's office is located, or for some other cause is unable to sign or verify a pleading, the attorney may sign or verify it, unless the person is, or is seeking to become, a fiduciary appointed in the proceeding.

Rule 7.103 adopted effective January 1, 2003.

Rule 7.104. Execution and verification of amended pleadings, amendments to pleadings, and supplements to pleadings; use of Judicial Council forms

(a) [Amended pleading and amendment to a pleading]

(1) All persons required to sign a pleading must sign an amended pleading. One of the persons required to verify a pleading must verify an amended pleading.

(2) All persons required to sign a pleading must sign an amendment to that pleading. One of the persons required to verify a pleading must verify an amendment to that pleading.

(3) A Judicial Council form must be used for an amended pleading, with the word "Amended" added to its caption, if the form was used for the pleading that is amended. A Judicial Council form must not be used for an amendment to a pleading.

(b) [Supplement to a pleading]

(1) A supplement to a pleading must be signed and verified by one of the persons who were required to sign and verify the pleading that is supplemented. However, the court may, in the exercise of its discretion, accept for filing and consider a supplement to a pleading signed under penalty of perjury by an attorney for the party offering it, where the information contained in the supplement is particularly within the knowledge of the attorney.

(2) A Judicial Council form must not be used for a supplement to a pleading.

Rule 7.104 adopted effective January 1, 2003.

Rule 7.204. Duty to ~~petition~~ apply for order ~~to~~ increase~~ing~~ bond

(a) [Ex parte application for order] Immediately upon the occurrence of facts making it necessary or appropriate to increase the amount of the bond, the personal representative, or the guardian~~,~~ or conservator of the estate, must make an ex parte application for an order increasing the bond.

(Subd (a) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(b) [Attorney's duty] If the personal representative, or the guardian~~,~~ or conservator of the estate, ~~or personal representative~~ has not already made application under (a), the attorney for the personal representative, or the attorney for the guardian~~,~~ or conservator of the estate, must make the ex parte application immediately upon becoming aware of the need to increase bond.

(Subd (b) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(c) [Amount]

(1) The application by a personal representative under (a) or by the attorney for a personal representative under (b) ~~to increase the amount of the bond~~ must ~~request that the amount of the bond be increased to the total~~ show the value of the estate's personal property ~~plus~~ and ~~one year's estimated~~ the probable annual gross income ~~from~~ of the estate~~'s real and personal property~~.

(2) The application by a guardian or conservator of the estate under (a) or by the attorney for a guardian or conservator of the estate under (b) must

show the value of the estate's personal property, the probable annual gross income of all of the property of the estate, and the sum of the probable annual gross payments of the public benefits of the ward or conservatee identified in Probate Code section 2320(c)(3).

(3) If the personal representative has full Independent Administration of Estates Act (IAEA) authority or the guardian or conservator of the estate has authority to sell estate real property without court confirmation, the application ~~increased amount of the bond~~ must also show ~~include~~ the amount of the equity in estate real property.

(Subd (c) amended effective January 1, 2003; previously amended effective January 1, 2002.)

Rule 7.204 amended effective January 1, 2003; adopted effective January 1, 2000; previously amended effective January 1, 2002.

Rule 7.454. Ex parte application for order authorizing sale of securities or other personal property

An ex parte application for authority to sell or to surrender tangible or intangible personal property must state whether or not the property is specifically devised. If it is specifically devised, the written consent of the specific devisee to the sale or surrender must be filed.

Rule 7.454 adopted effective January 1, 2003.

Rule 7.501. Inventory and appraisal to show sufficiency of bond

(a) * * *

(b) [Insufficient bond] If the bond is insufficient, the fiduciary (the personal representative, or the guardian or conservator of the estate), or the attorney for the fiduciary, must immediately make ex parte application as provided in rule 7.204 for an order increasing the amount of the bond. ~~to equal the total value of the estate's personal property plus one year's estimated annual income from the estate's real and personal property.~~

(Subd (b) amended effective January 1, 2003; previously amended effective January 1, 2002.)

(c) [Statement signed by attorney] The statement ~~in~~ required by (a) ~~and the application in (b)~~ must be signed by the attorney of record for each fiduciary

~~(whether executor, administrator, guardian, or conservator)~~ who has an attorney of record and by each fiduciary who does not.

(Subd (c) amended effective January 1, 2003; previously amended effective January 1, 2002.)

Rule 7.501 amended effective January 1, 2003; adopted effective January 1, 2000; previously amended effective January 1, 2002.

Chapter 12. Accounts and Reports of Executors and Administrators ~~[Reserved]~~

Title Seven, Probate Rules—Chatper 12, Accounts and Reports of Executors and Administrators, amended effective January 1, 2003; adopted effective January 1, 2000.

Rule 7.550. Effect of waiver of account

If an accounting is waived under Probate Code section 10954, the details of receipts and disbursements need not be listed in the report. However, the report must list the information required by law, including information as to creditors' claims, sales, purchases or exchanges of assets, changes in the form of assets, assets on hand, whether the estate is solvent, detailed schedules of receipts and gains or losses on sale (where an amount other than the amount of the Inventory and Appraisal is used as a basis for calculating fees or commissions), costs of administration (if reimbursement of these costs is requested), the amount of any fees or commissions paid or to be paid, and the calculation of such fees or commissions as described in rule 7.705.

Rule 7.550 adopted effective January 1, 2003.

Chapter 15. Compensation of Personal Representatives and Attorneys ~~[Reserved]~~

Title Seven, Probate Rules—Chapter 15, Compensation of Personal Representatives and Attorneys, amended effective January 1, 2003; adopted effective January 1, 2000.

Rule 7.700. Compensation paid in advance

(a) [No compensation in advance of court order] The personal representative must neither pay nor receive, and the attorney for the personal representative must not receive, statutory commissions or fees or fees for extraordinary services in advance of an order of the court authorizing their payment.

(b) [Surcharge for payment or receipt of advance compensation] In addition to removing the personal representative and imposing any other sanctions authorized by law against the personal representative or the attorney for the personal representative, the court may surcharge the personal representative for payment or receipt of statutory commissions or fees or fees for extraordinary services in advance of an order of the court authorizing their payment. The surcharge may include interest at the legal rate from the date of payment.

Rule 7.700 adopted effective January 1, 2003.

Rule 7.701. Allowance on account of statutory compensation

The court may authorize an allowance of statutory fees or commissions on account before approval of the final account and the decree of final distribution. Any allowance made before settlement of the final account must be low enough to avoid the possibility of overpayment. The allowance:

(1) Must be based on the estimated amount of statutory compensation payable on the estate determined as of the date of the petition for allowance;

(2) Must be in proportion to the work actually performed; and

(3) Must be based upon a detailed description of the ordinary services performed and remaining to be performed.

Rule 7.701 adopted effective January 1, 2003.

Rule 7.702. Petition for extraordinary compensation

A petition for extraordinary compensation must include, or be accompanied by, a statement of the facts upon which the petition is based. The statement of facts must:

(1) Show the nature and difficulty of the tasks performed;

(2) Show the results achieved;

(3) Show the benefit of the services to the estate;

(4) Specify the amount requested for each category of service performed;

(5) State the hourly rate of each person who performed services and the hours spent by each of them;

(6) Describe the services rendered in sufficient detail to demonstrate the productivity of the time spent; and

(7) State the estimated amount of statutory compensation to be paid by the estate, if the petition is not part of a final account or report.

Rule 7.702 adopted effective January 1, 2003.

Rule 7.703. Extraordinary compensation

(a) [Discretion of the court] An award of extraordinary compensation to the personal representative or to the attorney for the personal representative is within the discretion of the court. The court may consider the amount of statutory compensation when determining compensation for extraordinary services.

(b) [Examples of extraordinary services by personal representative] The following is a nonexclusive list of activities for which extraordinary compensation may be awarded to the personal representative:

(1) Selling, leasing, exchanging, financing, or foreclosing real or personal property;

(2) Carrying on decedent's business if necessary to preserve the estate or under court order;

(3) Preparing tax returns; and

(4) Handling audits or litigation connected with tax liabilities of the decedent or of the estate.

(c) [Examples of extraordinary services by attorney] The following is a nonexclusive list of activities for which extraordinary compensation may be awarded to the attorney for the personal representative:

(1) Legal services in connection with the sale of property held in the estate;

(2) Services to secure a loan to pay estate debts;

(3) Litigation undertaken to benefit the estate or to protect its interests;

(4) Defense of the personal representative's account;

(5) Defense of a will contested after its admission to probate;

(6) Successful defense of a will contested before its admission to probate;

(7) Successful defense of a personal representative in a removal proceeding;

(8) Extraordinary efforts to locate estate assets;

(9) Litigation in support of attorney's request for extraordinary compensation, where prior compensation awards are not adequate compensation under all the circumstances;

(10) Coordination of ancillary administration; and

(11) Accounting for a deceased, incapacitated, or absconded personal representative under Probate Code section 10953.

(d) [Contingency fee agreement for extraordinary legal services] An attorney may agree to perform extraordinary services for a personal representative on a contingent-fee basis on the following conditions:

(1) The agreement must be in writing and must comply with section 6147 of the Business and Professions Code.

(2) The court must approve the agreement in the manner provided in Probate Code section 10811(c), based upon findings that the compensation under the agreement is just and reasonable, that the agreement is to the advantage of the estate, and that the agreement is in the best interest of the persons interested in the estate.

(3) In the absence of an emergency or other unusual circumstances, the personal representative must obtain the court's approval of the contingency fee agreement before services are performed under it.

(e) [Use of paralegals in the performance of extraordinary services] Extraordinary legal services may include the services of a paralegal acting under the direction and supervision of an attorney. A request for extraordinary legal fees for a paralegal's services must:

(1) Describe the qualifications of the paralegal (including education, certification, continuing education, and experience);

(2) State the hours spent by the paralegal and the hourly rate requested for the paralegal's services;

(3) Describe the services performed by the paralegal;

(4) State why it was appropriate to use the paralegal's services in the particular case; and

(5) Demonstrate that the total amount requested for the extraordinary services of the attorney and the paralegal does not exceed the amount appropriate if the attorney had performed the services without the paralegal's assistance.

Rule 7.703 adopted effective January 1, 2003.

Rule 7.704. Apportionment of statutory compensation

(a) [One statutory commission and fee] There is one statutory commission for ordinary services by the personal representative of the estate and one statutory attorney fee for ordinary legal services to the personal representative, regardless of the number of personal representatives or attorneys performing the services. The court may apportion statutory commissions and fees among multiple, successive, and concurrent personal representatives or attorneys. The apportionment must be based on the agreement of the multiple personal representatives or attorneys or, if there is no agreement, according to the services actually rendered by each of them.

(b) [Notice of hearing] If there has been a change of personal representative or a substitution of attorneys for the personal representative, notice of hearing of any interim or final petition seeking or waiving an award of statutory compensation must be given to all prior personal representatives or attorneys unless:

(1) A waiver of notice executed by all prior personal representatives or attorneys is on file or is filed with the petition;

(2) A written, signed agreement on the allocation of statutory commissions or fees between the present personal representative or attorney and all prior

personal representatives or attorneys is on file or is included in or filed with the petition; or

(3) The court's file and the petition demonstrate that the commissions or fees of the prior personal representatives or attorneys have been previously provided for and allowed by the court.

Rule 7.704 adopted effective January 1, 2003.

Rule 7.705. Calculation of statutory compensation

(a) [Account filed] A petition for statutory commissions or attorney fees must state the amount of statutory compensation payable and set forth the estate accounted for and the calculation of statutory compensation. The calculation must be stated in the petition in substantially the following form:

COMMISSION OR FEE BASE

Inventory and Appraisal	$_____
Receipts, Excluding Principal	$_____
Gains on Sales	$_____
Losses on Sales	$(_____)
TOTAL COMMISSION OR FEE BASE	$_____

COMMISSION OR FEE COMPUTATION

4% on first $100,000	($_____)[1]	$_____[2]
3% on next $100,000	($_____)	$_____
2% on next $800,000	($_____)	$_____
1% on next $9,000,000	($_____)	$_____
½ of 1% on next $15,000,000	($_____)	$_____
Amount requested from the court for estates above $25,000,000	($_____)	$_____
TOTAL COMMISSION OR FEE		$_____[3]

[1] Enter in this column the amount of the estate accounted for in each category. The sum of the entries in this column would equal the total commission or fee base.

[2] Enter in this column the product of the amount of the estate accounted for in each category multiplied by the percentage for that category.

[3] Enter here the sum of the products entered in this column.

(b) [Account waived] When an account has been waived, the report must contain the information required by rule 7.550. If the report is accompanied by a request for statutory commissions or fees, the basis for their computation must be included in the petition substantially in the form provided in (a). Notwithstanding the waiver of account, if the petition and report requests statutory commissions or fees based on any amount other than the amount of the Inventory and Appraisal, detailed schedules of receipts and gains and losses on sales must be included.

Rule 7.705 adopted effective January 1, 2003.

Rule 7.706. Compensation when personal representative is an attorney

(a) [Personal representative's compensation only] Notwithstanding the provisions of the decedent's will, a personal representative who is an attorney may receive the personal representative's compensation but may not receive compensation for legal services as the attorney for the personal representative unless the court approves the right to compensation for legal services in advance and finds the arrangement is to the advantage, benefit, and best interest of the decedent's estate.

(b) [Agreement not to participate in compensation] A law firm of which the personal representative is a partner or shareholder may request compensation for legal services in addition to the personal representative's compensation if a written agreement not to participate in each other's compensation, signed by the personal representative and by authorized representatives of the law firm, has been filed in the estate proceeding.

Rule 7.706 adopted effective January 1, 2003.

Rule 7.707. Application of compensation provisions

For proceedings commenced after June 30, 1991, the law in effect on the date of the court's order awarding statutory compensation determines the amount of such compensation.

Rule 7.707 adopted effective January 1, 2003.

Chapter 16. Compensation in All Matters Other Than Decedents' Estates [~~Reserved~~]

Title Seve, Probate Rules—Chapter 16, Compensation in All matters Other Than Decedents' Estates, amended effective january 1, 2003; adopted effective January 1, 2000.

Rule 7.750. Application of rules to guardianships and conservatorships

The rules in this chapter apply to guardianships and conservatorships under division 4 of the Probate Code (Prob. Code, § 1400 et seq.) and to conservatorships under the Lanterman-Petris-Short Act (Welf. & Inst. Code, §§ 5350–5371). They do not apply to guardianships under chapter 2 of division 2 of the Welfare and Institutions Code (Welf. & Inst. Code, § 200 et seq.). Under Probate Code section 2646, the rules in this chapter applicable to guardianships and conservatorships apply only to compensation payable from the estate of the ward or conservatee or from money or property recovered or collected for the estate of the ward or conservatee.

Rule 7.750 adopted effective January 1, 2003.

Rule 7.751. Petitions for orders allowing compensation for guardians or conservators and their attorneys

(a) [Petition for allowance of compensation for services performed prior to appointment of guardian or conservator] A petition for allowance of compensation to a guardian or conservator or to the attorney for a guardian or conservator may include a request for compensation for services rendered before an order appointing a guardian or conservator. The petition must show facts demonstrating the necessity for preappointment services.

(b) [Required showing in petition for allowance of compensation] All petitions for orders fixing and allowing compensation must comply with the requirements of rule 7.702 concerning petitions for extraordinary compensation in decedents' estates, to the extent applicable to guardianships and conservatorships, except that the best interest of the ward or conservatee is to be considered instead of the interest of beneficiaries of the estate.

Rule 7.751 adopted effective January 1, 2003.

Rule 7.752. Court may order accounting before allowing compensation

Notwithstanding the time period after which a petition may be filed for an allowance of compensation to a guardian, conservator, or an attorney for a guardian or conservator, the court may order the guardian or conservator to file an accounting before or at the time a petition for an allowance of compensation is filed or heard.

Rule 7.752 adopted effective January 1, 2003.

Rule 7.753. Contingency fee agreements in guardianships and conservatorships

A guardian or conservator of the estate may contract with an attorney for a contingency fee for the attorney's services on behalf of the ward or conservatee, or the estate, in connection with a matter that is of a type customarily the subject of a contingency fee agreement, if the court has authorized the guardian or conservator to do so, or if the agreement has been approved by the court under Probate Code section 2644. The agreement must also satisfy the requirements of rule 7.703(d)(1).

Rule 7.753 adopted effective January 1, 2003.

Rule 7.754. Use of paralegals in the performance of legal services for the guardian or conservator

An attorney for a guardian or conservator may use the services of a paralegal acting under the direction and supervision of the attorney. A request for an allowance of compensation for the services of a paralegal must satisfy the requirements of rule 7.703(e).

Rule 7.754 adopted effective January 1, 2003.

Rule 7.755. Advance payments and periodic payments to guardians, conservators, and to their attorneys on account for future services

(a) [No advance payments] A guardian or conservator must neither pay nor receive, and the attorney for a guardian or conservator must not receive, any payment from the estate of the ward or conservatee for services rendered in advance of an order of the court authorizing the payment. If an advance payment is made or received, the court may surcharge the guardian or conservator in the manner provided in rule 7.700(b), in addition to removing the guardian or conservator or imposing any other sanction authorized by law on the guardian or conservator or on the attorney.

(b) [Periodic payments to attorneys on account] A guardian or conservator may request the court to authorize periodic payment of attorney fees on account of future services under Probate Code section 2643 on a showing of an ongoing need for legal services.

Rule 7.755 adopted effective January 1, 2003.

Rule 7.756. Compensation of trustees

In determining or approving compensation of a trustee, the court may consider, among other factors, the following:

(1) The gross income of the trust estate;

(2) The success or failure of the trustee's administration;

(3) Any unusual skill, expertise, or experience brought to the trustee's work;

(4) The fidelity or disloyalty shown by the trustee;

(5) The amount of risk and responsibility assumed by the trustee;

(6) The time spent in the performance of the trustee's duties;

(7) The custom in the community where the court is located as to compensation authorized by settlors, as to compensation allowed by the court, or as to charges of corporate trustees for trusts of similar size and complexity; and

(8) Whether the work performed was routine, or required more than ordinary skill or judgment.

Rule 7.756 adopted effective January 1, 2003.

Rule 7.955. Attorney fees for services to minors and incompetent persons

In all cases under Code of Civil Procedure section 372 or Probate Code sections 3600–3601, the court must use a reasonable fee standard when approving and allowing the amount of attorney fees payable from money or property paid or to be paid for the benefit of a minor or incompetent person. The court may approve and

allow attorney fees under a contingency fee agreement made in accordance with law, provided that the amount of fees is reasonable under all the facts and circumstances.

Rule 7.955 adopted effective January 1, 2003.

Advisory Committee Comment (2003)

This rule requires the court to approve and allow attorney fees in an amount that is reasonable under all the facts and circumstances, under Probate Code section 3601. The rule is declaratory of existing law concerning attorney fees under a contingency fee agreement when the fees must be approved by the court. The facts and circumstances that the court may consider are discussed in a large body of decisional law under section 3601 and under other statutes that require the court to determine reasonable attorney fees. The rule permits, but does not require, the court to allow attorney fees in an amount specified in a contingency fee agreement. The amount of attorney fees allowed by the court must meet the reasonableness standard of section 3601 no matter how they are determined. That standard may support the court's allowance of attorney fees that are higher or lower than fees determined by applying the formulas in some current local rules.

Standards of Judicial Administration

~~**Section 37. Electronic filing**~~

~~**(a) [Definitions]**~~

~~(1) *Electronically Filed Document:* An electronically filed document is an electronic version of information that would otherwise be filed as paper.~~

~~(2) *Electronic Filing System:* An electronic filing system is a set of procedures by which a court accepts, reviews, and processes data submitted by qualified electronic filers.~~

~~(3) *Qualified Electronic Filer:* A qualified electronic filer is a person who meets a court's criteria for use of its electronic filing system. These criteria may require a specific technological means of identifying the filer and processing electronically filed documents and related filing fees.~~

~~(4) *Format:* Format is the appearance that an electronically filed document would have if printed from its authoring application.~~

~~**(b) [Electronic filing generally]** To ensure that court records are complete, properly maintained, and at least as accessible as existing systems for paper~~

~~records, electronic filing systems used for court records should provide the following functions:~~

~~(1) Any electronically filed document should be able to be printed with the content and format it would have if printed from its authoring application.~~

~~(2) An electronic document should meet the archival standards prescribed for court records at the time it is submitted for storage. A document may be converted to meet archival standards as long as its content and format are not changed.~~

~~(3) A document submitted to the court in paper form may be digitized for inclusion in an electronic case file.~~

~~(4) An electronic filing system should accommodate submission of nonelectronic documents or exhibits.~~

~~(5) An electronic filing system should be capable of ensuring the authenticity of an electronically filed document by verifying that its content has not been altered since it was filed.~~

~~(6) Online access to an electronic filing system should be secured by a means of authenticating the user's identity and level of access.~~

~~(7) An electronic document capable of carrying viruses into court computers should be scanned for viruses prior to processing.~~

~~(8) Electronic filing functions should not put other court applications at risk.~~

~~(9) An electronic filing system should be protected against system and security failures, be regularly backed up, and have a disaster recovery plan.~~

~~(10) An electronic filing system should positively acknowledge to the filer that his or her electronically transmitted document has been received by the court but is not deemed filed until the court notifies the filer that it has met filing requirements. The court's notification should specify the date and time the court accepted the document as filed and identify any fees assessed for the filing. If the court rejects the filing, it should promptly notify the filer that the filing has been rejected.~~

~~(11) Electronic filing systems should enable a court to review electronically filed documents and validate the accuracy of the data they provide for the court's electronic filing system.~~

~~(12) The public should have access to electronically filed documents as required by law.~~

~~**(c) [Technical implementation]** Any functional standard may be met by a variety of technical implementations.~~

(Section 37 repealed effective January 1, 2003; adopted effective January 1, 1999.) The repealed section related to electronic filing.